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No. 2400

United States Circuit Court of Appeals

Ninth Circuit

Appeal from the District Court of the United
States for the District of Oregon

OREGON & CALIFORNIA RAILROAD
COMPANY, A CORPORATION, *et al.*,

Defendants and Appellants

JOHN L. SNYDER, *et al.*,

Cross-Complainants and Appellants

WILLIAM F. SLAUGHTER, *et al.*,

Interveners and Appellants

vs.

THE UNITED STATES OF AMERICA

Appellee

—o—

TRANSCRIPT OF RECORD

VOLUME VIII

PAGES 3789-4282

FILED

APR 4 - 1914

TITLE

NAMES AND ADDRESSES OF SOLICITORS UPON THIS APPEAL

For Appellants

OREGON & CALIFORNIA R. R. CO., *et al.*:

WM. F. HERRIN,
P. F. DUNNE,
J. E. FENTON,
San Francisco, Cal.

WM. D. FENTON,
Portland, Oregon.

For Appellants—JNO. L. SNYDER, *et al.*:

A. W. LAFFERTY,
Portland, Oregon.

For Appellants—WM. F. SLAUGHTER, *et al.*:

L. C. GARRIGUS,
A. W. LAFFERTY,
MOULTON & SCHWARTZ,
Portland, Oregon.

DAY & BREWER,
Seattle, Wash.

A. C. WOODCOCK,
Eugene, Oregon.

For Appellee:

JAMES C. McREYNOLDS,
Attorney General.

CLARENCE L. REAMES,
U. S. Dist. Attorney for Oregon.

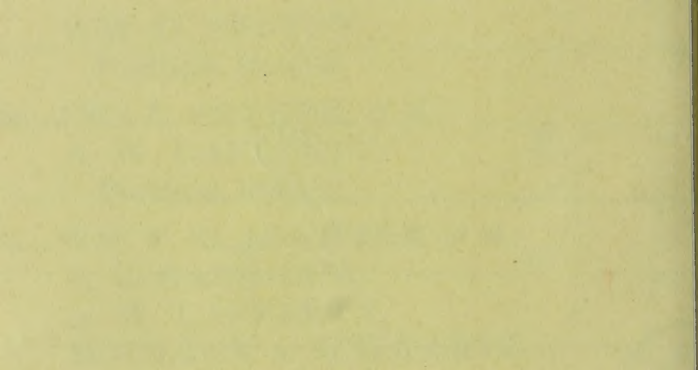
B. D. TOWNSEND,
F. C. RABB,

Special Assistants to the
Attorney General.

James a

876

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Whereupon J. E. KENNERLY, called as a witness on behalf of complainant, being duly sworn, testified, that he is fifty-nine years old, lives in Lane County, Oregon, and has lived in Oregon since 1876, in Lane County most altogether, in the vicinity of Eugene, Springfield and Leaburg. He has been ranching, farming quite a bit, in the stock business a good deal, raised stock, and bought and sold stock, also logged some. He has been engaged in farming about twenty-three miles east of Eugene in section 10, township 17 south, range 1 east, and owned a hundred and sixty acres there—not all in farm. It was not a homestead; he bought it. There was about seventy acres of it on the McKenzie River bottom, and the balance was on the hillside, bench land, part of it. He had that all in grass and the bottom land he farmed, consisting of about thirty-five or forty acres. The balance he had seeded down, it had been timber land, but was logged off, cleared and seeded to grass, timothy and clover hay. He raised on his farming land almost anything he wanted to, wheat and oats, vegetables of all kinds, berries and fruit. He is acquainted with the farming conditions and the crops raised in that vicinity generally throughout that part of Lane County. They can successfully raise there almost anything they want to, in the way of grain, vegetables, wheat, oats, rye, barley, vegetables of most any kind, fruit and berries. He lives at Leaburg now, which is shown on “Defendants’ Exhibit 259,” and is acquainted with that area from the mouth of the McKenzie to the head of it. The McKenzie River empties into the Willamette near the

corners of townships 16 and 17 south, ranges 3 and 4 west, according to this map, and meanders through township 17 south, ranges 1, 2 and 3 west, and township 17 south, range 1 east, and flows into the southern part of township 16 south, range 2 east, and into the northeast corner of township 17 south, range 3 east. Those are the menderings of the river as shown on "Defendants' Exhibit 259." He is acquainted on each side of the river from four to six miles out, and has been in that country a long while and has traveled all over this country, rode all over it, hunted all through it, and is pretty well acquainted with it and with the conditions of the soil, the lay of the land, and the formations there. There is about one-third of these railroad lands that are good farming lands, tillable lands, and he believes that average would hold good if the lands were divided into one hundred and sixty acre tracts. There are settlers living on similar lands, engaged in and earning their living from, farming, in that community. There is about one-third of it that is good pasture land, for instance, the hillside is a little too steep to plow. It is good soil, and they burn it off and seed it to grass for pasture land. He lives now in section 10, and the railroad lands are near his land—section 9 joins him and a part of that is railroad land, section 3 joins his place and that is railroad land. The Booth-Kelly Lumber Company owns a part of section 3 which they bought from the railroad company. Other parties there own a part of section 9, part of it is in litigation between a settler and the railroad company. That lays right along the river, right west of his place, joins him on the west. Part of sec-

tion 9 lays right on the river and is sandy soil. The bench land, hill land, is a dark red clay soil. These lands mentioned are about the same as that he has farmed there. He is engaged in farming there now, but not very extensively.

Q. In your opinion, Mr. Kennerly, what has been the effect of the Railroad Company's failure to comply with the conditions of this grant to sell to actual settlers in tracts of 160 acres, at \$2.50 an acre, and in selling to big companies in large tracts, and withdrawing the land from sale in this community that you reside in, or are acquainted with?

A. Well, it has been quite a drawback to our country there, shutting out settlers, and they have got some good land there in that section of the country.

Q. You mean land that would be good for farming purposes?

A. Yes, good for farming purposes, yes.

Whereupon, upon cross examination, witness testified, that, take it as a whole, he could hardly say what this railroad land is worth in his judgment, on an average, taking into account the timber that is on it and all its possibilities. There is a difference in the land itself, and then there is a difference in the timber, but take it as a whole, he supposes it ought to be worth right in his section there, twenty dollars an acre—the best of it. The best of it in hundred and sixty acre tracts, would probably be worth twenty-five dollars an acre. There are some bad tracts or parcels in there that are of no

particular value for any purpose, in certain localities there, on the high mountains, high peaks, that it is nothing but rock. Take it all over, about one-third or one-fourth of that railroad land in there would be practically of no value, that is, what he refers to as on high peaks and rocky. He doesn't see what those little points could be worth. Take the whole of the land that he knows, within five to six miles either side of the McKenzie River from where the railroad lands begin up to where they end, one-third of it would be agricultural land. He believes that he did not say that 25 per cent of the whole thing would be rocky and of no particular value, but then it is something near that. This piece of land that he owns there was a homestead and was entered about forty years ago. He logged off some of it—about sixty acres—and got something near 1,700,000 feet of average fir timber. He sold part of it to Max Friendly at Corvallis, and also to the Booth-Kelly Lumber Company. The man from whom he bought had logged off a little of it, a small amount, right on the bottom along the river. This land of his, that had been cleared was right along the river, in the bottom mostly, that was covered with heavy timber and brush until this man logged some of it off. They usually slashed the brush there in the spring, and then in the summer when it gets dry they run fire through it, burn the brush all out, and then take powder, after it is logged off, and blow the stumps out, haul them off, and cultivate it. In that way he cleared about thirty-five acres, entirely clear, one might say, and then he is cultivating some that the stumps are not taken out yet.

That on the hillside is in the stumps, the logged off part, he uses that for pasture land, and sowed that to grass after he had slashed it and burned it. He feeds all that he raises there on his place, practically, to his stock, excepting what he sells to the travel. He is keeping a stand on the road, hotel and feed barn, and consumes it all right there. There is a good deal of travel passing his place, going across the mountains to eastern Oregon and to Foley and Belknap Springs. He sells them hay, vegetables, fruit. He is about forty miles from Belknap Springs and thirty-two miles from McKenzie Bridge. He is twenty-three miles from Eugene. There is a post-office right at his place, within thirty steps of his house. He does not keep the postoffice, but it is on his place. There is no Donation Land claim taken right around him there on the McKenzie, the nearest donation claim that he knows of, is seven miles down to Walterville, and was the donation claim of a man by the name of Starman, he believes. He supposes it was settled in the fifties. When he says that about one-third of this land is agricultural, he means after the timber is removed and it is cleared. It is all timbered land right in their section. He thinks the character of the timber there on these railroad lands that he knows is about the average of Lane county. About four million, three and a half to four million feet would be a good average timber claim per quarter section. He does not believe that these railroad quarters there would run on an average of four million feet because the best of it has been bought up by the timber people; but he thinks the unsold rail-

road lands would average about three million feet per quarter section. He does not know that they were taking the land for the timber exactly, but the biggest rush that they had there for timber claims was about 1894 to 1896. The homesteaders would come in there and take up the land, and the companies began to buy. Before the homesteaders would go in, they had no market for their timber, to speak of, before that the timber was not sought after at all. The homesteaders were just burning it up and destroying it to get rid of it, but after that time the homesteaders began to rush in and the timber people began to buy. Most all of the government land that is worth anything in that section of the country has been taken in one way and another, either under the Timber and Stone Act, Homestead Act, or some kind of scrip. There are parts of the government land worth something, but not a great deal, the best of it is all taken, of course. There are probably some pieces that would pay to enter. They are small and scattering. He logged off of several sections there. He bought a part of a section of school land in section 16, logged that off—one hundred and twenty acres, he thinks. Then he bought a hundred and forty acres of railroad land in section 11, township 17, range 1 east, logged off one hundred acres of that, and then he sold the one hundred and forty acres. He logged off this railroad land about 1890, he thinks it was, and sold the logs to the Harrisburg Lumber Company for local consumption by the mills in the valley. That was before they began to ship lumber by the railroad east and to California. That

was before the Booth-Kelly Lumber Company came in and developed the industry. In their part of the country, the Booth-Kelly Lumber Company is the largest timber company, lumber concern, that is manufacturing. Some of these yellow streaks up the McKenzie and the Mohawk are practically level land along the streams, and that seems to be land that was taken under the Donation law, or under some previous settlement law, prior to the time the railroad grant took effect, and it seems to follow the streams, that is about the way they did in those early days. He is now living right at Leaburg, in section 10, which is next to section 9, which is railroad land. He thinks that along the McKenzie river there where Leaburg is, which is shown in yellow, about half of that section, whatever its number is, was taken under some settlement law, either homestead or pre-emption, before the railroad grant took effect. The McKenzie river is a good fair sized stream, about a hundred miles from its source to the mouth, and is a logging stream for about forty miles. Vida is thirty miles from Eugene. It is not in the timbered country, that is in a big burn which was burned fifty years ago. There is a big burn there, about fourteen miles long and twelve miles wide, and Vida is in this old, big burn. It was formerly timber and then burned over. Vida has a post-office and a little store there, and there are a few families—three or four—at Vida. On this burned-off land, and then back on the hills, on the benches, it is pretty much all taken up, all the level land is taken up by homesteaders. When one gets up the hillsides, there would be

little benches of level land—that is what he means by benches; and these benches are from fifty yards to three hundred or four hundred yards wide generally. They are almost level—level enough so they farm them. Some of these benches are two hundred or three hundred yards long, some of them a quarter to a half mile or a mile long, and these benches are frequent as one climbs the mountain. That is what he means by benches, and that is what they mean about benches. These benches are usually covered with timber, excepting where there has been a burn, only in this deadening there, there is nothing but brush, there is no timber left. The timber is all killed and burned off. At the present time, there is nothing on this burn but brush of different kinds—vine maple, dogwood, greasewood, in their native state. There are a few old stubs still standing, very few, though, they are all gone pretty nearly. There are a few logs on the ground, and there is a little small young fir coming up. He had had a little experience or knowledge of second growth fir and of the time it takes down along the McKenzie river there, for these young firs to get to be saw timber, and it takes quite a while. In fifty years, from his observation, the tree would be about twenty inches in diameter, if the soil was good, and its height would depend a good deal on the locality and soil in which it grows. From his experience, if it happened to grow in the right locality, a tree twenty inches in diameter would probably be two hundred feet high. The thickness of this second growth depends on the locality, too. If it is in the right locality, they grow pretty thick, probably

every ten feet. Trees that are twenty inches at the butt and two hundred feet high, can be used for saw logs—the little mills use them, and they are used for piling timber, a good deal of it, and for telephone poles and telegraph poles, piling generally. If a man calculated to live a hundred years or so, he supposes that if he had a forty of that kind of growth, it would be more profitable to keep it rather than to cut it up at that age, but he would think if he wanted to get the use out of it in his lifetime he would have to cut it. Measured by generations of men, these forests would certainly reproduce themselves in time, if they were given time enough and not burned up or cut down.

Whereupon, upon redirect examination, witness testified, that this logged-off land that he had cleared, he sold the timber and retained the title to that land where he is living. That burn is right there at Vida that he spoke of, that big burn around Vida. He couldn't tell exactly, but it crosses about two miles below Vida crosses the river, lays on each side of the river, the river runs up about through the center of the burn and lays on each side of the river, six miles on each side of the river, and it is about fourteen miles long where there is no green timber at all left standing except the young growth, the brush that has come up.

Whereupon, upon recross examination, witness testified, that he was born in Arkansas.

Whereupon, upon redirect examination, witness testified, that he was twenty-one years old and past when

he came to Oregon.

Whereupon, witness was recalled, and upon direct examination, testified, that he applied to purchase some of this railroad land from the Company in 1905 or 1906, which land was located in section 3, township 17, range 3 east, on the McKenzie river, right at the edge of the grant in section 3, township 17, range 3 east, the extreme eastern limit of the grant. He wanted that for a stock ranch, farming and stock raising. There is a fine range all around there in this big burn about which he spoke, and it is level. There is a little timber on it, but very little, probably 400,000 or 500,000 feet on the quarter section. He does not know what the railroad company did with his application. He wrote to the company, made application for it, and wanted to buy some of it, he wanted that quarter section, and the company wrote back that it was taken off of the market so he did not pay any attention to it. He has not the dates exactly. Almost every bit of that quarter section was agricultural land, that is, could be farmed. Referring to "Defendants' Exhibit 295" which shows the lands indicated on this map as owned by C. H. Chick and W. H. Richardson in different colors, he does not know whether this land that he applied to purchase, was north of the Chick tract and northeast of the Richardson tract. He does not know to whom this land belongs but this is now west here (referring to the Chick tract). The land lying south of it, right across the river, he does not know who owns that. Mr. Mason owns the adjoining land to it, laying south, a small tract. He has been all over

the Chick tract and Richardson tract. The land is rough, very rough land, compared with the land that he has, so far as farming is concerned (pointing to the Richardson and Chick land). It is on the south side of the river. Now, this is on the north side, and is a different country altogether, so far as the land is concerned, and is a different formation.

Whereupon, upon cross examination, witness testified, that he wanted this railroad quarter to make a stock ranch of, and then he would have the out-range there for several miles, and probably could get the use of some of that country. East of this, the land is taken by homesteads and fenced. North of it is a homestead, and northeast is a homestead, and people are living there, that is in that burn. After one gets outside of that burn, it is all good timber land. That land was not fenced, but the chances are he would get the use of that for a few years for range. He expected to raise hay and feed his stock there. He would use the range whenever he could get it honestly. He calculated to buy an acre adjoining that he could plow. He expected to fence this quarter section as quickly as he could, and he expected to turn his stock out and they would certainly go onto the adjoining range. He expected to deal in cattle. He has been in the cattle business and thought it would be a success. There was no other quarter section up there that suited him as well as that location, and he was kind of stuck on that quarter section. That quarter section is worth about twenty dollars an acre. At that time, it was not worth so much. At the time he

applied to purchase it, it was probably worth seven or eight dollars.

Whereupon J. M. WITHROW, a witness called on behalf of complainant, being duly sworn, testified, that he is sixty years old, lives at Springfield, Lane County, Oregon, and has lived in that county twenty-one years. He has had quite a little experience in farming in Lane county. He farmed about five years in that county and farmed different tracts. The first farming he did, he was logging, and he farmed just in hay, a twenty-acre piece for eight years, the same piece he lived on there, and he made his hay to log with. That land was situated on the McKenzie river, right below Walterville. Walterville is in section 28, township 17 south, range 1 west. The land that he farmed was bottom land, right near the river. It had been in timber years ago, that piece, but he logged off the land that adjoined it, all around it, after he moved there, heavy timber. He did not cultivate any of the logged-off lands, but the man that owned it, logged it by contract, seeded it and raised grass on it. But the same land since is in cultivation, but it was not, at that time. It has been placed in cultivation since he logged it off. He has also farmed down below Coburg, between Coburg and Harrisburg, two years. There was a part of that ranch that was bottom land, and part of it what they call prairie land, out in the prairie, level, valley land. He farmed two hundred and forty acres there. He thinks that was taken up under the old Donation law and belonged to some heirs by the name of Barger. He leased the place. He does not

know and couldn't tell where that was located in regard to section. The products raised in this country generally, up out of the valley, are hay, oats, barley and wheat. Of late years, they have raised lots of fruit, but at the time he farmed there, there was not so much fruit. The fruit industry has been largely developed in recent years. There is a big orchard on the place he had. It had lots of fruit, but the neighbors didn't have. There weren't many orchards there that were bearing. Referring to "Defendants' Exhibit 259," and locating Walterville thereon, he has been all over that whole township 17 south, range 1 west. He has lived there a long time, and hunted a good deal when he was not logging, and went all over it. He is not acquainted about Wendling, not quite so far up as Wendling, in township 16 south, range 1 west. He is well acquainted with it up as far as Marcola, which is about a mile south of Wendling on the range line. He has been about six miles from Wendling, pretty near anyway. He is not more acquainted with the railroad lands in that township 16, range 1 west, south of Wendling, than he is with the Government land, the settlers' land. He is acquainted with it all, has been all over it, and is generally acquainted with the lands there, and with the lands in township 16, range 2 west, that is, west of Marcola, and in the vicinity of Donna, right on their road going up through that country. He is not acquainted with any of the lands in township 18 south, but has been in the Fall Creek country, all along, but then he did not know the ranges, or numbers, or any thing, just went through there. He has been north of

Fall Creek in this territory with the green markings and the white markings, in township 18 south, range 1 west, he has been all through there, and is well acquainted with it. His work runs right up the river, up the McKenzie river, right on up in township 17-4, 3 and 2 east, and township 16-4, 3 and 2 east, all of that. He had a piece of land in township 16-2, his homestead was in that township. The grant does not extend beyond range 3 east in this locality. The railroad lands do not extend beyond that. He knows about where they are. They run into township 17-3 east, about two miles into township 17-3 east, as a general thing. That has been his beat for seven years, he comes pretty near knowing where they are exactly. He was Fire Warden four months in the year for seven years in there, in that McKenzie river territory, in those numbers he gave there. He was Fire Warden for the McKenzie Timber & Lumber Company—Michigan people, and it would take him out over the territory—he would say, sometimes. The percentage of lands in this area covered by the green markings, that he would consider suitable for cultivation would be owing to how far one would come down the river. One comes down as far as Walterville, and from that east of his beat there, he would say that the land there would go about 50 per cent that would be suitable for cultivation, that is, could be rendered suitable by removing timber and brush, or anything of that kind that should be on it. On the south side of the McKenzie river, in township 17, range 3 east, the country is broken, very broken and mountainous. There are lots of good

little places in there, but of course that would be hard to get to. It is broken country, while on the north side, it is good—practically good. There is a distinction between the north and the south side of the McKenzie river in the lands. In range 2, township 16, the land runs good and it runs good in township 17-1, and through there on the south side, but in township 17 south, ranges 2 and 3 east, there is a rough spot right in there that would not run so good. There are farmers and settlers engaged in farming all over, with the exception of township 17 south, range 3 east, there are but three or four in that township, there is more than that, too. Township 17 south, range 3 east, is not owned nearly solid by the Booth-Kelly Lumber Company, they own some in there, but this company he worked for owns a good deal, or most of the land. That township is practically owned altogether by some of these companies. He owns some land in there, his daughter owns some land in there, and there are a few odd pieces scattered around in there, but, generally speaking, it is owned by big companies. They obtained a great deal of that land, the even sections, by scrip, he thinks. These settlers in there raise a little stock, and hay, and garden, and some fruit, commencing to raise fruit, it is a good fruit country, they expect it to be good for fruit in there. In his opinion, if this land was divided into one hundred and sixty acre tracts, it would, on the north side, average about what he has stated the general average of plow land is in that area. It would not, however, in this one township, that would be spotted, that township would

not go more than one-four, if it would go that, but the other townships, the one above it, that is past the railroad limits, but one would make a hard climb to get up over the river on top, and after one would be on top, if the road was cut out there, for three miles at a stretch, one could run an automobile through the country, it is practically level after one gets through there. That is good country when it is logged off. That is the best belt of timber there is on the McKenzie river, and is claimed to be the best belt, and is where one could run the automobile. If the trees and logs were cut out, an automobile could be run in that country through three miles of his trail. The way he puts it, it is not steep enough to stop them. But that is back away out of the railroad limits, and is very heavy timbered, and is east of the grant, extends beyond the limits of this grant. The railroad grant only runs to the center, or hardly to the center, of township 17, range 3 east. There is a railroad section which joins a piece of his land there on the west. It was a timbered piece he got. His homestead was in 16-2, and this piece was in 17-3. He had his homestead seven years before he got title to it, and sold it to lady whose name he cannot recall. There was a lady who came here to Portland, and sent some man out to get big pieces of timber in there, and she got it, but he could not call her name at the present. She was from the East somewhere, he thinks from Michigan. He believes it was Mrs. Potter Palmer of Chicago, Illinois—he would not be positive, but he thinks that is the name. She bought lots of timber there.

Whereupon, upon cross examination, witness testi-

fied, that he was paid as Fire Warden for the McKenzie Timber & Lumber Company, as they called themselves. They were Chick, Morton and Lewis, three or four of them, he cannot remember them, but they belong in Michigan, and part of them in Portland. They have, in township 17 south, range 4 east, 16,000 acres of these timber lands up in that country. They bought homesteads, they bought them and people deeded them to them and moved away. They sold them out to them. He presumes they were buying them for the timber. There were a good many of them, these homesteaders, who were young men, and quite a number of them were not. But those who had families were the same as he was when he held his down, he supposes. He had a family. He sold his land to this lady he was speaking about, to Mrs. Potter Palmer, and got two thousand dollars. He sold his land twelve years ago, but has forgotten the date. His homestead was in section 10, township 16 south, range 2 east, and was the northeast quarter of section 10. His nearest postoffice was Vida, about five and a half miles away. Vida is a stage station. There is a stage which runs up the McKenzie to Blue River, and also from there to the springs. This was a stopping place for them to take dinner, change horses, and so on, referring to Foley Springs. Blue River is the point that they all call it, Blue River stage, and when they get to Blue River, there is another stage which runs from that to the springs. They cannot make it in a day, so they change there and come out after night with the last drive. That is all timbered country

up through there, except in township 16 south, range 2 east, and was all heavy timbered country until this fire ran through it. That timber was burned when he came to this country and they claim it was burned about fifty years ago. There are young firs just in spots, in little creek canyons, there are streaks of fir growing up, and around the edge of the heavy timber there is fir growing up, but there is not all over. He does not know the reason why it does not seed with fir all over again. They do have fires in this burn occasionally, different parts of it. It was one of the great dangers that as a Fire Warden he had to guard against, that of fires being set in this dry burn, and then he had to stop them before they got to the main timber or they would cause them lots of trouble. Young fir timber grew there once, and it certainly would again if they would let it alone, if the fires were not set out, he thinks. These fires are from hunters and from travelers and from campers mainly, and fishermen up that river. He entered a timber claim there in township 17 south, range 3 east, and paid the Government so much an acre for it, under the Timber and Stone Act, six years ago. He thinks he got title to it under the Timber and Stone Act, in about a year and a half. He did not live on it at all, he had to go and look at it. He went all over it, took two men as witnesses, found the corners, had it cruised or estimated, and it has been cruised now by other parties twice since that. He owns it yet. It cruised about four million feet fir timber, good saw timber, and he supposes it is worth four thou-

sand dollars. His daughter bought some timber, and her husband had several pieces of timber, he got killed, and that left it to her. Her husband was a timberman, worked in timber, always had ever since he was a boy, and he had a pre-emption piece, and a homestead and timber claim piece, all timber. He does not know what they would run, those three quarters. One of them, he believes, was cruised last week and they cruised it at eight million feet. That was a good fair piece of timber. That was a piece he took under the Timber and Stone Act. He took that, he thinks, seven years ago. He does not know when he took his homestead, but he took it before that, a good while before that. It was not adjoining that, but was over in another township entirely, in a timbered belt. It is all timber up there, they have to take it in the timber if they take it. The rush for timber, to get timber land, occurred about 1894 and 1895, and it continued and has been pretty active until the last two years when it has been rather quiet. It was pretty active about 1906 and 1907. He could not state the year when the Booth-Kelly Lumber Company went into that country and started their sawmills. He was right there, but he does not know exactly, but it was about twelve or thirteen years ago. He does not know that after they bought up extensively and began to manufacture lumber and ship it out to California and east, timber had a better demand. He doesn't know that that cut any figure with it, because what little they cut didn't cut much figure with the price of timber. These companies that came in is what raised the price of timber

and made it active. He thinks Mrs. Potter Palmer, who bought his timber, had a considerable number of acres up there. He thinks right there in that locality she bought about two thousand acres. There are no government quarter sections there until one gets into the reserve. The timber and everything is taken that is worth taking, practically all but the railroad land, it lays there. In his judgment, the best quarter sections of this railroad land up there today, counting the timber and everything else that goes to make up a valuable quarter section, the best ones are worth anyway five thousand dollars, if one would go to pick any of them out, to the quarter. These railroad quarter sections, take it over those townships that he beat through there, that he went through so much, they would average three million feet anyway. He has not done a good deal of logging, not very extensively, he logged for seven years. He logged by contract. He had a team and put in logs for so much a thousand. He raised his hay to feed his horses when he was logging. He raised his hay on a piece of land right there where he lived, near Walterville. Walterville is quite a little village, has a store, blacksmith shop, postoffice, drug store, two hotels, two big barns that keep travel, and there is quite a lot of people live there in the town, and is sixteen miles from Eugene, on the stage road to Soda Springs and Foley Springs, and there is lots of travel there in the summer time. Those places are mountain resorts where a great many people go constantly. People come in there from Kansas City and spend the month of August, from San

Francisco, and come from everywhere, all over. It is a wooded country where they hunt, fish, and have a rest. It is good fishing and there is good water. He lived down near Coburg when he farmed, in a part of the valley which has been settled a long time. He came from California to Oregon, but was born and raised in Iowa, came to California, and from there to Oregon, and is now living in Springfield. He is Fire Warden, and then goes through the woods, hunts and traps, and so on, through the winter season, and he might be said to be a woodsman and timberman. He has been in the woods the biggest part of his time for twenty years, all over those townships that he showed, and has been all through them in all directions.

Whereupon, upon redirect examination, witness testified, that his homestead was in section 10, the northeast quarter of section 10, township 16, range 2 east, right north of Vida, on the headwaters of Gate Creek. His daughter's timber was located in sections 10 and 24, township 17 south, range 3 east. She had two pieces. It was within the limits of the railroad grant—both pieces. These settlers, some of them farm extensively—big farms—and others again are what they would call new comers, and haven't very much grubbed out yet, but they are at work on it right along. He couldn't state what they would average, he means back on the foothills. They have settled in township 16 south, range 2 east, since this grant was made. The government land in this burn is practically all taken, there is probably a piece or fraction occasionally that is not. They have

built houses on them, have cleared out patches, some of them not more than one acre, and some of them ten or fifteen acres, back for three miles from the river. They are comparatively recent settlers in this burn. They have been there—some of them have been there ten years, and some of them haven't been there only the last three years—it has been settled up, more extensive settlements have gone in.

Whereupon, upon recross examination, witness testified, that he had cleared about three acres on this homestead, and he cleared that three acres the first two years he had it, and then that was all the clearing he did. He did not reside on the homestead all the time. He had a family, and in school months he would have to come out of there. There was no school. He would come down to Walterville where there was a good school, fifteen miles from his homestead and would go up in the summer time and take his wife and children and spend the summer up there, and raise a garden, and when fall came on they would move back to Walterville. He did this every year, but he always got a permit. He did not get this permit as much to enable him to make a living elsewhere, but it was to get out to the school. He got the permit from the officials of the government, the local land office. They would give him permission to be absent from his quarter section. He could be away six months at one time, if he wished. He kept that up for seven years. He kept that up for five years. He was in there on the place, back and forward still, on still afterwards, after he did prove up. He had no trouble in

proving up, he had no contest. The other homestead entrymen up in that country, some of them had families and did about the same way he did, some of them would have to come out of there, there were not enough of them to get a school in there and they would have to come out.

Q. These single men that went up in there, and took homesteads and then the lands afterwards turned up, on commuting or on final proof, sold to these timber companies, how did they manage their settlements—these single fellows, how did they do?

A. Well, they would just go in and out now and then, do a little work and come out, and be gone and go back.

Q. I have understood that a good many of those young fellows were sawmill hands, and young fellows from the towns, that they would go and file on a good piece of timber-land, and put up a little shack of shakes, and put a bunk in there, and take a few canned goods out, and a little bacon, and stay a night or two, and then in the spring put in a little garden, sow a little stuff, and then go away, go back home. Is that the way that was done by a lot of those single fellows?

A. Well, no, not at the time I was holding mine, there was none of those sawmill boys or anything of that kind in there. There were settlers, and men that came in there off of ranches in the valley, and one place and another, and take them up as a place, young fellows.

Q. And then would go back to the valley?

A. Yes, sir.

Q. Well, now, as a matter of fact, don't you know, Mr. Withrow, that people, after this timber rush as we call it, went from Salem and Albany and Eugene and all around?

A. Oh, yes, I think they did.

Q. And undertook to enter these lands in the best way they could, some of them under the Homestead Act and some of them under the Timber and Stone Act, so they could get a quarter section?

A. Yes, I guess they thought they was entitled to it.

Q. And they made a form of complying with the Homestead law?

A. Yes, sir.

Q. Where they didn't take it under the other law?

A. Yes.

Q. And they kept up their business at home in the towns, until they finally commuted?

A. Yes, sir.

Q. Isn't that the fact?

A. Well, there wasn't very many of them commuted.

Q. They generally saved their \$2.50 an acre?

A. In Cleveland's administration, you know, there wasn't enough money for a young man to get hold of

to commute.

Q. I understand times were pretty hard during that time.

A. I think so. I found it out so.

Q. So they had to stay their five years?

A. Yes, they had to stay it out.

Q. Well, they stayed it out by going up there every six months, and then getting money working out, and finally got their patents?

A. Yes, sir.

Q. But you cannot do that now? You have got to comply with the law?

A. Well, one reason you cannot is there ain't any timber to take in that country.

Q. If there was plenty of timber, they would do the same thing?

A. They would be foolish if they didn't, if they could get it that way.

Q. They have got it that way, a good deal of it?

A. Well, that is the way you have it figured out.

Q. Is that right, Mr. Withrow?

A. It is with some of them, but I don't know as the majority would go that way, but there was now and then in that timber entering business we had a fraud occasionally, as well we do in everything else.

Q. I know, but they didn't think that was a fraud?

Wasn't that the custom of the country?

A. Well, not entirely, no. They didn't want to beat anybody, only some of them—

Q. That was the custom of the country at that time?

A. It seemed to be. It was a rush for the timber anyway.

Q. That is right?

A. Yes.

Whereupon, upon redirect examination, witness testified, that these people who were living in there who made their homes there for from ten to twenty years, acquired title to the land and those that have been there that long have not only homes they have made a living on, but they made a little money. They acquired their lands by homestead, lived up to the requirements of the Government laws. These men, who made a pretense of residence on the homesteads and then selling to timber companies, not living on them as he did, after they got the title, there was nothing in there for them, and they stayed out where they could get work. Now in that country, there is not a road in it back in there, only trails, pack trails, and so on, it is not fit for a fellow, really, to live, without enough of them would go so as to make a road out, to do something. Several years ago the railroad company sold some few pieces in that locality to settlers, in the vicinity of these lands that he is speaking of. It must have been ten or twelve years ago that they sold it. These people who bought from the railroad com-

pany used the land according to the location of the land; some of them would buy it for the timber that was on it, he supposes, and others bought it for homes. There are a good many of them who bought forty or eighty acres from the railroad, that was in those burns, and even where it had quite a little timber on it, and slashed it off, and made them good homes, and lived right there. That is what one at present might term a remote region. The nearest railroad is at Springfield, down in there it is all the way from twelve to twenty miles to a railroad.

Whereupon JAMES W. KINMAN, called as a witness on behalf of complainant, being duly sworn, testified, that he is forty years old and lives two miles from Mabel postoffice, Lane county, Oregon, and has lived in that county ten years. He has a ranch, is a farmer, and has been engaged in farming on the same place in section 28, township 15 south, range 1 west, ever since he has been in Lane county. He has eighty acres of good land which, in its native state, was timbered land. Part of it was logged off after he got it, and part of it was logged off before. It had been slashed and the timber burned and cleared out. He does not know how long the man had lived on the place before he got it. It was patented land. The man that he bought of took it as a homestead. Witness sold the timber that he took off of the place to the Hyland Lumber Company. He applied in 1905 to the railroad company to purchase one hundred and sixty acres of land in section 21, which joined his land and he wanted to make a ranch out of it. He does not know what was done with his application, he

never got an answer. He wrote to the Southern Pacific Land Office at San Francisco, California. He is familiar with the business of farming in the vicinity of his land, and in that part of Lane county in which he lives. They raise grain for hay, oats, vetch, cheat hay, clover, fruit, all kinds of vegetables, garden truck, and the soil is productive. Mabel is shown on "Defendants' Exhibit 259," and is right where he lives now. That is where he bought there near the postoffice as it was there at that time, but they have changed it down to the mill now. The green markings on this map, he understands, represent the unsold lands of the Company, and the blue represents lands that have been deeded. He is acquainted with these lands from Shotgun Creek, shown on this map, and he has been all over that township to the fork of the creek, what they call the forks of the Mohawk, from the summit down, both on this side, from what they call Mt. Bunker south of Mabel. He has been over that area, about four miles up to the summit, what they call the summit, between the Calapooia and the Mohawk, and is acquainted with the lands there, that is on the north side of the Mohawk, and on Shotgun Creek, which runs through township 15 south, range 1 west, and he has been pretty well over this country, pointing to the northwest portion of township 15 south, range 1 west, on the north side of the Mohawk. He is acquainted with that territory west of Shotgun Creek, but was never back in that country but once, north from Mabel, east from Shotgun Creek, that would be the northwestern portion of township 15 south, range 1 west, as shown

on this map. He is acquainted in township 14 south, range 1 west, down to the summit. There is a very small portion of railroad lands in that township. Township 14 south, range 1 west, is beyond the summit and he hasn't been there. He has been up what they call the east forks of the Mohawk, perhaps ten miles from Mabel. Section 29, township 15 south, range 1 west, half of that or more, in his opinion, could be rendered suitable for cultivation; section 19 is rather rough and broken after one gets back away from the creek in section 29, half of that or a little more, and in 19 there would be perhaps about one-fourth, that could be rendered suitable for cultivation. All this land with which he is acquainted, from the Shotgun east to what they call the summit, between the Mohawk and the Calapooia, what he has been over and noticed, if it were cleared off would be half so that could be farmed. There are settlers, people engaged in farming, in section 21, but back of that there are none. Similar lands are farmed in that general community, and the same averages would hold good if the lands were divided into one hundred and sixty acre tracts.

Q. In your opinion, Mr. Kinman, what has been the effect of the railroad's policy in handling this grant, failing to fulfill the conditions by selling the land to actual settlers in 160 acre tracts at \$2.50 an acre—what has been the effect, if any, upon the development of this community?

A. It has kept settlers out.

Q. By settlers, what do you mean?

A. Why, people would have made homes out of it, if they could have gotten it.

Q. Do you mean engaged in farming there?

A. Yes, sir—orcharding.

Q. Now, the settlers that are over there in that country, Mr. Kinman, how have they developed their land? Just describe it.

A. Well, there is two families living on 21, been making good livings, and there are six families of us living in 28, and that is south of 21, and east of 29.

Q. Have they been earning their support from the lands that they had in these sections?

Whereupon witness testified that these settlers had lived there ever since he had been there. There is some pretty good timber on section 21, and there are open, fairly open ridges, and some swamp, land covered with hazel brush and small stuff in these lands in sections 21 and 28 that he has mentioned. This area he has described is, part of it, heavy timber, and then there are open countries in there. He does not know what it would run. He never cruised them and does not know as to that. He came from Iowa.

Whereupon, upon cross examination, witness testified that section 21 is a railroad section, and there are

two families living on that section. He thinks they bought the title from the railroad company. They were living there when he came there, he thinks one of these, Van Meter has eighty acres, and Smith has one hundred and sixty acres, but he does not know what they paid for their land. It was before he came there. He understood Mr. Smith to say that he had about forty acres of his hundred and sixty acres cleared, and the other man has twenty or more acres cleared, by cleared he means ready for the plow. These people had four or five head of cattle. At present, he has only one pony on his place. He has been in the cattle business some up there, he has been keeping them on his place—had fodder. His place is all fenced, and he does not avail himself of the outside range, but some of his neighbors use the outside range. They raise up there to sell, potatoes, garden truck and apples, they have a market for this at the sawmill, it is the Coast Range Lumber Company now, it used to belong to Hyland Brothers, but it has changed hands, also a mill at Wendling. It is not a great ways to Wendling. The place there at Hyland is now called Mabel—there are thirty or forty houses at Mabel, and working in the sawmill when the mill is operating, there are at the present time about a hundred and fifty men. They are rebuilding a big mill at present. They have not been running steady for the last two years. They ship their lumber out by railroad, the Southern Pacific Company Railroad comes up what they call Hyland siding, and the Coast Range Lumber Company has its spur road up to the mill and its woods. That is not the railroad that

is building over from Natron to Klamath Falls, but is a branch. That whole country there is pretty much a timbered country. Going to his place, he does not go to Wendling. He first reaches the valley land, about a mile below him, on the Mohawk. He does not know how long the Mohawk has been settled with Donations and early settlers. The settlers were there when he came, long before he came. He never took a homestead in this country and never entered any land under the Timber and Stone act. He bought his eighty acres from a man who had a patent from the United States, and paid nine hundred dollars for the eighty acres and, in his judgment, it is now worth thirty-five hundred dollars. This unsold railroad land that adjoins his, taking it as a whole, by quarter sections, timber and all just as it stands, he does not know what it is worth, he is not a timber cruiser, there is timber on this in places, and part of it is saw timber. He does not know about how much those timber lands run in timber, per quarter section, on an average, he never cruised any. Not having any experience in cruising, he would not know how much timber was on a quarter section of this railroad land, but there are patches of heavy timber, and then there are open places, and the land in section 21 would be worth more if the timber was off than the timber would be worth. The timber and brush keep grass from growing. He means that if a man owned the land, it would be better for him if there was no timber on it, if it was cleared land. If the timber was off, it would be worth more for everything than it is with the timber on it—the land would be worth more.

He could probably sell the land today more for the timber than for the land, perhaps, as there is timber on it. There is a demand for timber. Principally on the south part of it, this timber is second growth, on the northwest part of section 21, it is bigger timber. By second growth he means limbs, small timber, timber that has not reached its full age. Second growth is not old growth timber. There is smaller timber, from little stuff up to two or three feet in diameter. He does not remember the largest fir tree in diameter in that country of which he knows, but he expects that some of those fir trees are six to eight feet in diameter, and there are several that would be as much as six feet where they would be cut off at the ground. When they are cutting this timber for logging purposes, they do not cut them right down at the bottom, sometimes they cut them as high as one's head, six or eight feet high, and use a spring board to stand on to saw, and they learn how to saw so that the man on the spring board can protect himself when the trees fall. That is the way these timber men manage to cut these trees down for logging purposes, and that is called "standing the spring board." They know by the shape of the cut what slope to give it to make the tree fall in a certain direction. He had done that kind of work, but most all of the farmer boys in this country have not done that kind of work. There are lots of them that live in that timbered country who do not work at it, lots of them do not work much at anything. He applied for one hundred and sixty acres of this land in section 21 about 1905, wrote to the company

to know what it wanted for it, and if it would sell it, and he addressed his letter to the Land Department of the Southern Pacific Company in San Francisco, California, and got no reply. "Q. You never applied to purchase any of this railroad land under this Act of April 10, 1869, where this \$2.50 an acre business is being used by people who apply for lands. A. No, I just wrote to them to see if they could sell, or what I could get it at." As a farmer, he wanted to buy it and wanted to pay and would have paid a reasonable price, what he thought was right.

Whereupon, upon redirect examination, witness testified that the land, this piece of land that he was speaking about, would be more valuable than the timber and would be better with the timber off, and if a man should purchase that land, the best proposition, the best way to handle it, would be to sell the stumpage and keep the land. That was the land he applied to purchase and that he wanted for farming, and he intended to clear it up and make a ranch out of it.

Whereupon, upon recross examination, witness testified that he intended to sell the stumpage or get the timber off and sell the timber for whatever he thought was right, and then burn it over and seed it to grass the first year or two, and work it up that way. At that time he could have gotten for timber stumpage, per thousand feet, about fifty cents, and he estimated that the timber stumpage would bring forty to fifty dollars an acre, perhaps, taking it on the whole hundred and sixty acres.

Q. Well, if you could have got that at \$2.50 an acre and then sold the timber for \$40 or \$50 an acre, you would have made a pretty good thing, wouldn't you, and had the land left?

A. Well, I would rather have had it with the timber off; if it had been cleared, it is worth more.

Q. You would have made a pretty good thing, though, wouldn't you?

A. I wouldn't have made such a great thing after paying the price to get the stumps out and the logs all off.

Q. No, but if you had just stopped, and hadn't put the money back into the ground, you would have made the difference between \$50 an acre and \$2.50 an acre, wouldn't you?

A. Well, there would have been some difference, yes.

Whereupon, upon redirect examination, witness testified that he had lived in that community ten years, and during that time the railroad company had sold lands up in that section. Louis Van Meter bought a forty in section 21 since then, that is all he knows of in there. He does not know of the company selling to any other people who desired lands for farming purposes. Booth-Kelly Lumber Company owns a good deal of land in there, but he does not know whether they bought it since then or before.

Whereupon, upon recross examination, witness tes-

fied that Louis Van Meter sold his forty that he bought from the railroad company sometime ago to a man for orchard purposes for eight hundred dollars. There was not very much timber on it. Van Meter paid something near four hundred dollars, he thinks, but he does not know.

Whereupon, upon redirect examination, witness testified:

Q. Mr. Kinman, if the Railroad Company have only a \$2.50 interest in this land, and are permitted to keep it and sell it at the increased price, they would make the profit?

A. Yes, sir.

Q. Off the land just the same as the individual would make the profit?

A. If I had bought it and I had sold the timber, yes.

Whereupon F. M. WILKES, a witness called on behalf of complainant, being duly sworn, testified, that he is thirty years old and has resided in Corvallis, Oregon, since 1907. He is county engineer of Benton county, and incidentally surveyor in the employ of the Government during the field season. He is acquainted with the farming business in Benton county to a limited extent. He has never farmed in that county, but was raised on a farm in Washington county. Exactly the same conditions do not exist in the two counties so far as farming is concerned. Washington county is a rich county and has a different soil entirely, Benton county is very spot-

ted, has more of a spotted soil, and he would say is not so productive. However, Benton county seems to carry off the blue ribbon in the state exhibits. His business as surveyor and engineer carries him to the homes of farmers and he has had an opportunity to observe them largely, that has been his business since 1908. He was elected to the office in 1908 and has occupied it continuously ever since. He notices that Corvallis is marked on "Defendants' Exhibit 259," and that the green markings on that map indicate the unsold lands of the Oregon and California railroad land grant. He is intimately acquainted with more or less of these unsold railroad lands. Once in a while, there is a small river lot in through there (pointing to map) and he is more intimately acquainted with that than he is with the lands farther out. Most of this land in here (pointing to map), he has been in contact with, one time or another, surveying lands around near it. In township 14 south, ranges 5 and 6 west, he thinks there is a small amount of land, that is in here, Bellefontaine, Glenbrook, Monroe, country in through there—there are small amounts of lands that are within that area, those townships, 13 south, ranges 5 and 6 west, that he is fairly well acquainted with. Township 12 south, range 6 west, he believes the biggest part of that is in the Wagon Road grant. He notices the yellow markings which represent lands that were lost to the grant by reason of prior grants and entries. In townships 10 and 11 south, ranges 5 and 6 west, he is pretty fairly well acquainted. He never had any occasion to work in range 7, the west half of 6 and

7, through township 10. Benton county begins in township 10, near the north line of 10, and continues to the north line of 15, below the south line of 14. He is not very well acquainted with the west parts of those particular sections, or particular townships, from township 10 to township 14, ranges 6 and 7 west. From 10 to 14, townships south to range 5 west, there are a few isolated tracts in there, all those are desirable farm lands, at the present time these lands are covered with more or less of river bottom growth, fir, white fir and ash, maple and kindred river bottom, typical river bottom growth, and that would be very desirable for farming lands if opened to entry, he would think. Similar lands to those are farmed in that district all around. They are fractions which have been left, legal subdivisions which are left, after the donation land claims were taken up, and are small, usually very small fractions that lay contiguous to the donation land claims, and in no instance that he knows of in those particular townships stated are they more than small fractions of fifteen or twenty acres, along there—very small—but when one gets over in from townships 10 to 14 in range 5, which is all within the grant, there are very few only isolated tracts in those townships. They would be all suitable for agricultural purposes, and they lay within the bottom and on the lower foothills. From township 10 to township 14 south, in range 6 west, one is beginning to get out in the end of the foothills, or into the more mountainous country, and the agricultural lands in that range of townships embraced within the boundaries of the county would

probably average 50 to 60 per cent that could be cultivated to advantage. In range 7, from township 10 to township 14, he has not as accurate knowledge of that, as he has of the other, for the reason that it is mostly timbered and a great deal of it unimproved lands, and he has not had occasion to be in it a great deal. But from the observations that he has made in through there, a lower percentage would be available for cultivation, not over one-third. He has not the acquaintance with that land that he has with the land further in the valley, for the reason that there is not nearly as much surveying within that particular part of the country as there is out in the valley. That covers the lands with which he is acquainted in Benton county. If divided into one hundred and sixty acre tracts, this average would generally prevail, with the exception of probably a few isolated cases that it would not, perhaps, due to the locality of the country, steep hillsides, or something like that—more or less. He believes that it would, though, throughout. Lands similarly located and situated, with similar soils, are used for farming purposes successfully in that locality. There are farms more or less all through them. He knows the general character of the country there, as one sees it from Corvallis, looking west both in a northerly and southerly direction, and can see well up on to the summit of the Coast Range there. One can see the lower foothills, the outer foothills ranging back four or five miles from the main part of town there, and beyond that one cannot see but very little of the Coast Range, in fact, one cannot see any of the summit of the

Coast Range along there at all, only in special cases like Mary's Peak, or some of those high range peaks, some of those high points. A person standing in Corvallis can see, in that timbered country there, on the east slope of the Coast Range, here and there patches of cultivated land, with grain growing, that is true to the northwest. The land to the west is up Mary's River, and that is within the boundaries of this Wagon Road grant, and outside of the O. and C. grant, but that is mostly donation land claims. They were taken up there in the early fifties, donation land claims were, and, of course, they are more or less cultivated all through. That land on either side of the railroad, as one goes to Yaquina Bay, a large part of it has been burned over. After one gets out beyond Harris, the little station of Harris on the Corvallis & Eastern, beyond there it is more or less burned over, it has been burned over for a number of years. That land is of the same general character as the land north and south of it, excepting for the fact that the timber has been burned off. They are now selling that burned over country, and people are going in there and making use of it to quite an extent. Those farm lands are pretty extensively taken up.

Q. Don't you remember that somebody bought that wagon road grant and has been distributing it in small tracts to settlers?

A. Yes, they have been selling it out of late years, to settlers all through there, and there is a good many

settlers in there.

Whereupon, upon cross examination, witness testified, that he was born at Hillsboro. These foothills west of Corvallis four or five miles were pretty well taken up into the hills under the Donation law, and then there was a fringe of fractional railroad forties, twenties and eighties in the foothills just back of that adjoining these donations. Within the valley the donation land claimants were allowed to take up their donation land claims in any shape, and the result was there were a number of fractions, and some of them were not appropriated, he supposes, at the time this grant was made. Most of the lands in the foothills, inuring to the company under this grant, within a range of four, or five or six miles from Corvallis, have been sold a good many years ago to these farmers. There are only a few isolated tracts in there, just small tracts. When one gets further, back seven or eight miles from Corvallis, then one begins to get into the railroad lands, and some that have timber on. One begins to get into the heavier timbered country, with the exception of this burned area, which he believes is principally covered by this Wagon Road grant, and that was at one time timber land. He believes that Mary's Peak is four thousand feet, something like that, in elevation. Corvallis is a town with a population of nearly five thousand, and is the seat of the Oregon Agricultural College, formerly a college maintained by the South Methodist Church. It is only within comparatively recent years that it has become a state institution. Corvallis has been a town, and

is an old settled community from as early as the fifties, and he thinks that it was a little earlier than that. It is at the mouth of Mary's River, at the junction of Mary's River and the Willamette, and he thinks the railroad was built to Corvallis about 1879, that is further back than his time, but it is a long time anyway. The road known as the Corvallis and Eastern has been in existence from Yaquina Bay and through Corvallis on east beyond Albany for more than twenty-five years, it was probably that long anyway. It was first started as the Oregon Pacific, or its predecessor, by Colonel Hogg. The road went into the hands of a receiver at one time and was sold for about \$100,000, he knows that is its history, it hardly paid its receiver's certificates, it did not pay anything. As far as he knows, these railroad lands, up to 1905, were being sold to whoever wanted to buy them. He had never had any occasion, had never heard anything along that line, never had any interest in railroad lands, for the reason that at that time he was going to school. There is a large body of railroad land belonging to this company which remains unsold in Benton county. He has never read any statistics of the amount of land that there is in there. He has never cruised any of these lands, not any of this land grant. He has cruised considerable lands in the county, has done cruising at one time and another for the county for assessment purposes, but never cruised any of these railroad lands for assessment purposes. They were already cruised for assessment purposes, the timber lands, before he went into office, practically, so that he would not

make an estimate on the time that it was cruised. When the timber became an object of merchantable transaction, the county began to consider about getting it cruised so as to tell how to assess it. He thinks that a dollar a thousand is probably the stumpage value of these timber lands at the present time. He has not heard of any timber being sold in Benton county for quite a long while, but that was the prevailing price at the time that he knew anything of it. A good timber quarter in Benton county will run from two to eight or ten millions to the quarter, there is very little that goes ten million. He would say probably the average of timber lands in Benton county would not be over three or four million a quarter section. He has never applied to purchase any of these railroad lands and he has never taken a homestead. He has never used any of his rights whatever.

Whereupon, upon redirect examination, witness testified, that this railroad that was constructed from Yaquina Bay easterly through Corvallis and Albany on to Detroit, in the Cascade mountains, was purchased by A. B. Hammond, he believes, and he understood that one of the conditions of the sale was that he was required to reconstruct the roadbed and the bridges and ties, and put it into shape for operation. He does not remember who bought it from Mr. Hammond, after getting it into operation. The Southern Pacific is the supposed operator of the road, but the Corvallis & Eastern Railroad Company, he thinks, has the control, that is, that is the corporate name of the company, he thinks. He thinks that it is a subsidiary company, but the name and corpora-

tion of the Corvallis & Eastern, he believes, is preserved. It is operated as part of the Southern Pacific system of railroads, that seems to be the general opinion. He does not know what they paid Mr. Hammond. When he says that Mr. Hammond bought this railroad, he means Hammond and some of his associates, Hammond was probably the main man in the deal.

Whereupon, upon recross examination, witness testified, that he believes, if he is not mistaken, that Hammond operated the road as the Coast and Willamette Valley railroad first. He thinks that when Hammond sold it, it was then organized under the name of the Corvallis and Eastern, which now operates it, sells tickets and handles it. He understands that it is a subsidiary company, and a part of the Southern Pacific system. The summer business is pretty good to Yaquina Bay, there is fair travel over the road all the time, fair passenger business, there is not a great deal of freight business, and never has been, so the old timers tell him, any freight business over that road since the time that Hammond bought it up. Hogg tried to make a port at Yaquina Bay, had a line of steamships in there at one time, but he does not know that the expense of operating the steamships broke the road.

Whereupon, upon redirect examination, witness testified, that he had been out east from Albany up to Detroit, a few times, but he would not say as to the business of the Corvallis & Eastern there. He does not believe they do more business there than they do on the

west end of the road. They do more freight business, possibly, but he would not say that the passenger business was as much, he does not think it is, a good deal smaller trains run anyway. That road is the connecting link between Corvallis and Albany, and is practically the only railroad connection in there at the present time. The Oregon Electric is coming in now, but the rails are not laid that far west yet. It crosses the Willamette River at Albany.

STIPULATION.

Mr. Townsend: It is hereby stipulated that R. G. Balderee, if called as a witness, would testify that he has been a resident of Oregon for more than twenty years, living most of the time in Lane County; that he is familiar with the lands in Townships 16 South, 1 and 2 West; 17 South, 1 East and 1 West; 20 South, 1 West, and 21 South, 1 West, in Lane County; also Township 14 South, 7 West, in Benton County, and Township 8 South, 7 West, in Polk County; that he has done considerable cruising in those districts. He will further testify that, of the lands in 8 South, 7 West, 50 per cent could be subjected to cultivation after being cleared of timber and the stumps removed; that of the lands in Township 14 South, 7 West, 65 per cent could be cultivated after the land is cleared by the removal of the timber and stumps; that of the lands in Townships 16 South, 1 West and 2 West, 80 per cent can be cultivated after the timber is removed and the stumps taken out; that of the lands in Townships 17 South, 1 West and 1 East, ap-

proximately 50 per cent can be cultivated after the land is cleared of its timber and the stumps removed; that of the lands in Township 20 South, 1 West, approximately 70 per cent can be cultivated after the timber is removed and the stumps taken out; that of the lands in Township 21 South, 1 West, approximately fifty per cent can be cultivated after the timber is out and the stumps removed.

His general testimony as to the character of the land and the stand of timber, and other facts and circumstances upon this general subject, would be substantially the same as the testimony of O. J. Lawrence as to Lane County; and the same general testimony would apply to his judgment as to the lands in 8 South, 7 West, and 14 South, 7 West, except as to the quantity that could be cultivated.

He would further testify that he is the R. G. Baldersee mentioned in the bill of complaint who made application to purchase a quarter section of land in Township 20 South, 1 West, along with O. J. Lawrence, and that the general circumstances under which his application was made, settlement was made and maintained, and other circumstances relating thereto, are substantially the same as in the case of O. J. Lawrence.

Mr. Fenton: Counsel for defendants consent to this subject to the objection that the testimony, or part thereof, is incompetent, irrelevant and immaterial, and other objections made to the testimony of O. J. Lawrence; it not being intended to admit, of course, that the testimony

is true.

Mr. Townsend: And it is stipulated that the present offer shall have the same force and effect as if he had been called, sworn, and testified, and objections had been interposed as stated by counsel.

Mr. Fenton: It may be so understood.

STIPULATION.

Mr. Townsend: It is further stipulated that E. C. LAKE, if called and sworn as a witness in this case, would testify that he is one of the parties who made application to purchase land in Township 20 South, 1 West, and was made a cross-complainant in this present suit; that the testimony of Mr. Lake as to the character of the land in that township, and its susceptibility to cultivation and settlement, would be substantially the same as the testimony of O. J. Lawrence, excepting that the knowledge of Mr. Lake extends only to that one township, and not to the other lands referred to in the testimony of Mr. Lawrence; and Mr. Lake would further testify concerning his application to purchase, settlement, residence, improvements, and other details connected therewith, substantially the same as the witness O. J. Lawrence.

Mr. Fenton: And his cross-examination would develop substantially the same state of facts.

Mr. Townsend: Yes.

Mr. Fenton: It may be so stipulated, subject to the objections made to the previous testimony.

Mr. Townsend: Subject to the objections made as to the offer of the testimony of R. G. Balderee.

Whereupon C. W. MARIELS, called as a witness on behalf of complainant, being duly sworn, testified, that he is forty-one years old, and lives in the town of Gooch, a sawmill town in Linn county, Oregon. There is a sawmill and shacks there, and a postoffice, that is all. His father moved into Linn county in November, 1884 or 1885, he is not sure which, and his father lived on section 26, township 9 south, range 2 east. The house stands in the southeast quarter of the northwest quarter of section 26. His father took up a homestead there of practically one hundred and seventy-six acres. It was a fractional quarter section that ran more than one hundred and sixty acres, laid down on account of the donation land claim up against it. His father was the original entryman on this homestead. It was heavy timber land, brush and timber. His father has been dead since 1888, and the land belongs to his brother and himself. His father was a carpenter, he had been a farmer all of his life until he came to this country, that is, he had farmed, but when he came here in his early days he had learned the carpentry trade and went to carpentering, and took that land as a homestead, went on to that land there after he had been there something like three years. His father farmed that homestead, and when he died had about six acres under cultivation, and took his family there, about ninety days after he filed on it, died on the place. Witness lived in Salem part of the time while his father lived on the homestead. He had business there,

had cattle on the place all the time, and was backwards and forwards, and has lived there, he might say that had been his home all the time since then, right in there. His father raised hay, vegetables, fruit, and had stock there and made his living right on the place. His father had less than fifty dollars when he came here with his family, and had to go in debt the first winter for his living, after that he worked out in the neighborhood, and the like, and at the time he died was out of debt, and had made his living on the place. He is and ought to be acquainted with the farming and products of the soil in this general vicinity of Linn County, as he has lived there the greater portion of his life in that community. Referring to "Defendants' Exhibit 259," he is in what would be called Fox Valley, which is the postoffice there, and is about six miles east of Mehama. Mill City is marked in there but he is on the Linn County side, he is six miles east of Lyons, and is acquainted with all this country in there, and has been all through all of that country there, clear east to the summit. He has not been north any further than the divide between the Little North Fork of the Santiam that runs through Elkhorn and the Molalla, on the extreme eastern limits of the grant. He has been up in here quite a distance, probably six to ten miles from the Little North Fork, from Elkhorn, from here on up, in township 8 south, range 2 east. He has been east clear over the mountains, clear into the Three Sisters into Eastern Oregon. He is not acquainted with the lands in township 8 south, range 1 east, but has been in township 8 south, range 2 east, has been

through that district, and in township 9 south, ranges 1 and 3 east. He has been through township 8 south, range 3 east, but is not much acquainted through there. He is acquainted with township 10 south, ranges 1, 2 and 3 east, and has done some locating in and is acquainted with the lands in township 11 south, range 4 east. None of the lands in township 11 south, range 4 east, are included in the grant. He has been through that country all south of that, but as far as being acquainted is concerned, he is not. He has been pretty well through the mountains. The lands in township 8 south, range 2 east, would not run over 25 per cent that could be cultivated, that is in the mountains, and it is rocky country in there. The lands in township 9 south, ranges 1 and 2 east, will run 75 per cent, and township 9 south, range 3 east, will run from 40 to 60 per cent, along there, and township 10 south, ranges 1 and 2 east, will go probably 50 per cent, a little the rise of that, and township 10 south, range 3 east, will be up in the mountains again where it will probably go 40 to 50 per cent. He has done lots of hunting through that country, some locating and acting as guide, and has done some cruising. He hunted through that country and has been pretty thoroughly over it, has been all through it and has been from where he lives south pretty well all through the mountains, went through with pack horses and teams, through to California. If this land were divided into one hundred and sixty-acre tracts, these percentages stated would hold good as to each one hundred and sixty acres. He does not know of but one or two one hundred and sixty

acres in there but what a family could go on and make a living, meaning township 9 south, range 2 east, township 10 south, range 2 east, township 9 south, range 3 east, and so on. In township 8 south, range 2 east, there is some of that in Stack Creek and Horn Creek that they could not do it, it is very steep and rocky. The lands that could not be cultivated could be used for pasture land, they could run cattle, sheep, goats—very little sheep in their country there—cattle and goats, on this pasture land. They raise wheat and oats and hay of all kinds—clover and some timothy—and are introducing alfalfa, in the vicinity of these lands, but they have not made a success of that yet, there are one or two good patches, outside of that there is not. They raise all kinds of vegetables, and all kinds of fruit, outside of peaches. Lands similar to the railroad lands are settled. By settled, he means people have taken up homesteads and live on them, make a living on the land in following agricultural pursuits, farming. His father's place is now logged off, the timber was sold and the title to the land retained. They got \$2750 for eighty acres of timber, the other timber is not sold. He applied to purchase lands from the railroad company in section 35, township 9 south, range 2 east, near his father's homestead, it joined his place. He desired that land to make a home and it is good land, part of it has timber on, heavy timber, but there is a part of it that is swamp, and a kind of meadow on it, a vine maple swamp. He and his three brothers tried to buy all the section that was left there, that is four hundred and eighty acres off the section, and there was probably

in the whole thing about sixty acres of this swamp, but in reality the meadow and the swamp on the part that he wanted was something like eighteen to twenty acres. The swamp referred to in the low ground would have to be drained. That is what they call a Nine Bark swamp, or a beaverdam, and it is covered with brush, and water stands on it in the winter time, and till late in the summer, and then around the edges there is a kind of fern glade, and this swamp is lower ground—and the higher up it gets, probably this glade is ten or twelve feet above the swamp, and it runs out into vine maple swamp then, with very little timber on it. There is probably twenty acres which has vine maple, and the rest has heavy timber. The whole thing could be rendered suitable for cultivation if the timber was off. There would be on that one hundred and sixty acres probably not more than twelve to fifteen acres on the hillside that one could not plow and the rest of it could all be plowed. He made his application to purchase this land the first time along about 1896, but he is not sure about the time. The company replied that they asked something like fifteen dollars an acre for it. The last time he applied, was in 1908, and the company answered that it was not for sale at all.

Q. Mr. Mariels, what has been the effect, in your opinion, of the Railroad Company's failure to fulfill the conditions of this grant to sell the land to actual settlers in tracts of 160 acres, at \$2.50 an acre? What is its effect in that community that you lived in there?

A. It has kept settlers out of there, kept people out

of the country. You take it there now, Mr. Henry Bodiker, he had a homestead on top of the mountain there, and just the way the country laid, there was a railroad section on each side of it, that was good land, and he couldn't, nobody could get in there next to him. He had no school, he had to send his children, well, between $3\frac{1}{2}$ and 4 miles to school.

Whereupon, upon cross examination, witness testified, that his father took this homestead in 1884 or 1885, in section 26, township 9 south, range 2 east, on the Santiam river. The Potter donation land claim joined it. He does not remember whether that donation claim was a half section or a section. There were four hundred and eighty acres in the Potter place originally, but there was part of it Mrs. Potter's donation claim, and he does not know whether it was three hundred and twenty acres or four hundred and eighty. That donation was settled a great many years ago, in the fifties. His father's homestead was all timber land, he had cleared before his death five or six acres right around the house. It was not right on the Santiam, but up on the first bench from the Santiam, a little over a quarter of a mile from the river. The Santiam River bottom overflows at high water. It is not covered with cottonwood and stuff like that, but is all gravel and rock, and is all river bar there, that North Santiam on up. There is no open land on the river above his father's place, nor this side of it that is any good. It is the first bench above the river that has any farming land at all to speak of. On this Potter donation land claim, he thinks there is something like two hundred acres

of cultivated land now, that is, of the old place. He could not tell how much of that was prairie in the beginning. He knows that they have cleared up—he would think there have been about sixty acres of it, seventy acres, cleared since he went there. They slashed and cut the logs, girdled the trees and killed them, and then felled them after a few years, and logged it up and burned it. They have taken the stumps all out now, they burned the stumps out. He did not say that his father had his place logged. His father never did have his place logged. The boys sold the timber off the place in the last four years to Fred Gooch and it was sawed in a sawmill there. The sawmill is right on their place and has been there four years last March. They sold in the first sale, eighty acres of timber to Gooch. He couldn't tell how many million feet it amounted to, he did not scale it, they sold it, for a lump sum of twenty-seven hundred and fifty dollars. They estimated the timber at about 75 cents a thousand, which was about the market price at that time. It is now worth a dollar to a dollar and a quarter to a dollar and a half. This clearing that he had done on his father's homestead, all together, on both places, was probably something like twenty acres, that is, there is some of it that has not been plowed yet, that he will plow up this winter, about twenty acres. It is not all on his father's homestead, he bought a place there, a part of this old Potter donation land claim, two years ago at \$25 per acre, the east part of it, the timber part of it, ninety-seven acres of it, and probably eight or ten acres of this cleared land that he speaks of is on the Potter do-

nation land claim and the balance of the twenty acres is on the homestead. The two boys now own the homestead and, in addition to that, he has a part of the Potter place, and one of his brothers bought part of the Harm place which is east of that. His father's homestead, owned by him and his brother, is not for sale, and he could not say what would be its fair market value if it was for sale, he could place a value on this piece of land of his which lays right on the west side of this, referring to the Potter land, he is holding that ninety-seven acres at \$5000.00, and he thinks that is plenty high enough, it is probably worth forty or forty-five dollars an acre. There was four hundred and eighty acres of this railroad land that he and his brothers, the three of them applied to purchase, each a quarter section, it was timber and brush. It had some good saw timber on it, it had something like three million feet to each quarter section. It was a mile and a quarter to two miles from the Santiam River, and could be logged. They log within two or three miles of the Santiam River, using cables and a donkey engine. The stumpage would be worth a dollar probably. The company asked fifteen dollars an acre for that land in 1896, and he applied for it last in 1908.

Q. Did you make an application under this \$2.50 an acre statute?

A. No, sir. Yes, I made application there, and they answered me back that it was absolutely not for sale.

Q. Did you sign one of these written blanks that

these timber locators and brokers had been circulating around?

A. No, sir.

Q. You just wrote a letter?

A. I wrote a letter, and made out a blank, had a blank made out by a Notary Public.

Q. But did you offer the \$2.50 an acre?

A. Yes, sir.

Q. And you claimed to be an actual settler, did you?

A. Yes, sir.

Q. But you never went on the land to settle on it?

A. How is that?

Q. You never went on the railroad land, though, to settle on it, did you?

A. Well, never built no house. I went up there and made some improvements.

Q. What did you do?

A. Done some slashing, and put some fence onto it, and used it for pasture until later on, until I got my notice that it absolutely was not for sale, and so I went and tore the fence down.

Q. Well, your intention was to make actual settlement in that way?

My intention was to put up a house and move my family onto it. His application was made some time

in 1908, and he went to work and fenced part of it, and did a little slashing, and where he started in to slash there, he aimed to put up a house. He did not do much slashing, probably something like a half acre. It was not in the big timber. That was in near this fern glade, this swamp, probably three-quarters of a mile, on an air line, from the house on his homestead, but by wagon road it was two and a half miles. At that time his family consisted of his wife and three children. He was living in Salem at that time, and in business at Salem, and he made this application out at Salem. R. R. Ryan was the notary public. He does not think Ryan was in the business of taking these applications. He does not know of any applications that Ryan made out. He does not know where his two brothers made their applications, but they applied for the other two quarters. All three of these timbered quarters would carry, in his judgment, about three million feet to a quarter. He does not know that his brothers made their applications in 1908. They made it from 1906 to 1908, along there somewhere, in the same way, at two dollars and fifty cents an acre. They were living at Fox Valley, what is Gooch now, and about a half a mile from these places, from a half to a mile of these places. There was some Government land away back in there that was not taken. They did not take that Government land because this railroad land was better land and closer up to settlements. This Government land had good timber on it, it had three million feet on it and a whole lot more. It is not still Government land—he could not tell who had taken it. There

has been some homestead land taken there, a whole lot under the Timber and Stone Act. While he was living in Salem, his business was handling horses. He was there about six years, off and on. While his father lived on this homestead, he followed his trade and worked out when he could, at carpentry work. He was fourteen or fifteen years old when his father went on the homestead in 1884. Witness worked out away from home, worked down on the Albany prairie, on a ranch down there. The rest of the children are younger than he, he is the oldest one of the family. His father did not get ahead by his help, he was not enabled to support himself and his family in that way. He is sorry to say that he didn't help his father much before his death, he didn't help the family enough. His father worked out when he could, he was a carpenter, but at that time there was no carpenter work to be done up in that part of the country at all, he did work out a good deal of the time, and only cleared about six acres, but that was heavy timber that he cleared. His father kept some stock, which ranged all over the country there, south. He does not know how many cattle his father kept, probably he had twenty or thirty head, somewhere along there, he would sell a few cattle every year; he did not sell any vegetables or anything of that kind, until the railroad went in there in 1887, when he sold what vegetables and potatoes and the like he had then. It operates three trains a day from Mill City up, and runs a logging train from Mill City up, and freight, besides passengers, regularly. Gooch is a little sawmill town, but he does

not know how many men work at this sawmill, but would judge something like thirty or thirty-five, that is in the sawmill and in the woods. They get their logs from the mountains around there. He has cruised some of this railroad land, he never cruised any of the railroad land excepting for himself. He cruised in section 25, township 9-2, and section 3, township 10, range 2, and he cruised that for himself because it was a good piece of land and his idea was to try to buy it, and he afterwards did try to buy it. This is not the land that he has referred to. He tried to buy three different pieces. As fast as they would answer him back on one, he would write again. In section 3, township 10 south, range 2 east, that will go something like 4,000,000 to 4,500,000 feet to a quarter section. He cruised that in the winter of 1908 or 1909. He did not apply to buy a quarter section of that under this Act. He wrote to the Company for prices on it, and told them he wanted to make application to buy this quarter in section 3, but did not state what price he wanted to buy it at. He got a reply that it was not for sale. He wanted to go out there and settle on this piece of timber land. At that time he hadn't bought this Potter place and he was looking for a location, and wanted to take his family out to that. If a man would be right careful, he would get big timber enough on this quarter in section 25 to fence it, that would be all. There was some of that quarter that was good farming land. The reason that he did not take that quarter that had no timber on it for a home was they refused his application. He has applied to

buy three different quarter sections of this railroad land, they wrote to buy and the Company informed them that there wasn't any of it for sale, and they would write for another piece.

Q. You wanted to make a home, and be an actual settler on each one of these three?

A. Well, I suppose when they turned me down on where this timber was that I could buy this where there was no timber, so I wrote to them.

Q. Now, you intended, though, to settle, if they would let you, on each of the three?

A. Yes, sir. No, either piece that I bought I aimed to settle, yes.

Q. Well, but you first applied for two timber quarters, didn't you.

A. How is that?

Q. You first applied for two timber quarters?

A. I first applied for a piece in 35. They turned me down on that, and then I applied for a piece in 3, and they turned me down on that, and then I wrote in reference to 25.

Q. And they turned you down on that?

A. Yes, sir. They said they had no land in that district for sale at all.

Q. Yes, I understand that. You have stated that two or three times.

A. Yes.

Q. But each of the first two quarters was good for timber, one had about 3,000,000 feet on it, and the other had about 4,000,000 feet?

A. Yes.

Q. That is right, isn't it?

A. Yes, sir.

Q. And when you couldn't get the timber quarters, then you tried them on a quarter that didn't have any timber on?

A. Yes, sir.

Q. You intended to move onto the first one they sold you?

A. Yes.

Q. And make an actual home and a settlement?

A. Trying to buy a piece of land, yes.

Q. Now, why didn't you take a homestead? You had a homestead right, hadn't you?

A. Yes, sir.

Q. Well, weren't you, after the time you became 21, weren't there a lot of good homesteads up in that country?

A. Yes, sir.

Q. Why didn't you take a homestead, and get some of this good timber?

A. I have got a homestead.

Q. Where is your homestead?

A. It is in—that is I haven't got a homestead. I took one in 11-4.

Q. What section, part of section?

A. Well, now, I couldn't tell you just exactly what section it is in.

Q. When did you file on that?

A. Never filed.

Q. You selected it?

A. I went in there before it was surveyed, and just took a squatter's claim on it.

Q. Have you ever applied? It has been surveyed since?

A. It has been surveyed, yes, sir.

Q. How long ago?

A. Why, I don't remember just when that survey was accepted.

Q. Is your time up in which to apply?

A. Yes, sir.

Q. You haven't applied, though?

A. Yes, I applied.

Q. Where did you apply? At the local Land Office?

A. Yes, sir.

Q. At Portland?

A. Here at Portland.

Q. When did you make the application?

A. Either four or five years ago.

Q. And have you made improvements on it?

A. How is that?

Q. Have you made any improvements on it?

A. Built a house onto it, yes, sir.

Q. Have you lived on it?

A. Well, no, I didn't live on it.

Q. You just did about what others do when they take a homestead?

A. No, sir. They notified me that it was not open for settlement, that the Railroad Company had placed scrip onto it, and unfortunately I had a family, and my wife was in no shape to stay there that winter, and I had to move out, go back.

Q. You did live on the land?

A. Yes, sir.

Q. How long did you actually live on the land?

A. I was not on the land—I didn't have my family on the land very long. I was on the land very near all summer.

Q. Just tell us how long you had your family on the land?

A. Well, I don't know as I could.

Q. Was it one night or two nights?

A. Oh, yes, they was out longer than that. There

was one child that I never took in, because he was a baby, and my wife she was in there with the other children, and she was in there I don't know how long.

Q. A week?

A. She was in there twice.

Q. A week or ten days?

A. There was one time, yes.

Q. And did you have a house to live in, or did you live in a tent?

A. I had a house to live in.

Q. You built just a little shack?

A. I built a cedar house—14x16.

Q. And you took a few things in to cook with, and a few little bedding?

A. I took some bedding in, yes, sir.

Q. And then your wife was there about a week, and some of the children, and then after that she came back again for a little while? Is that right?

A. Yes, sir.

Q. And then you finally gave it up?

A. No, sir.

Q. You still claim it?

A. I gave it up because I had to that winter, and moved out.

Q. What winter was this?

A. It was 1907, I think it was.

Q. Was your wife up there in the winter or in the summer?

A. She was there in the fall.

Q. What month?

A. She was there both in July and August.

Q. Well, that is practically summer in this country, isn't it, July and August?

A. Yes, sir.

Q. Well, that is about the time when we have our vacations in the mountains?

A. Yes, sir.

Q. Sort of recreation?

A. Yes, sir.

Q. Do any fishing out there—hunting?

A. How is that?

Q. Did you do any fishing or hunting out there during that time?

A. I hardly ever fished any at all.

Q. I know, you hardly ever, but did you that time?

A. I don't think—I don't think I had a fish pole in my hand for ten or twelve years to fish, until this summer, sir.

Q. You didn't fish any out there that time?

A. No, sir.

Q. Did you hunt any?

A. I don't remember whether I did or not. I generally do, though, when I am around the woods.

Q. Did you see my brother H. L. Fenton out there hunting elk and deer in that country?

A. No, sir.

Q. You know him, don't you—lives at Dallas?

A. I have heard of him.

Q. Well, you have heard of him, he is a hunter?

A. Yes, sir.

Q. Goes into that country and spends his summer hunting sometimes?

A. Sometimes, yes, sir.

Q. Now, then, you get elk out there sometimes, don't you?

A. No, sir.

Q. They are all gone?

A. No, there is elk in there.

Q. Well, that is what I thought, there is elk.

A. That is, not in that part of the country. There is elk in the country out there in the Cascade Mountains, yes, sir.

Q. Now, this homestead, that was scripped by the Northern Pacific, I suppose?

A. Yes, sir.

Q. Did it have any timber on it?

A. Yes, sir.

Q. How much did it have on it, in your judgment?

A. Probably seven million and a half, or eight million.

Q. Seven or eight million would be a good claim, wouldn't it?

A. Pretty fair claim, yes, sir. There is some claims, though, that has got more timber than that on.

Q. Did your brothers take homesteads out there, too?

A. Well, I don't think they did, no. They might have, but I don't think that they did.

Q. Why didn't you take it under the Timber and Stone Act?

A. How is that?

Q. Why didn't you take some of this timber under the Timber and Stone Act, and get a good quarter section of timber?

A. Unfortunately you cannot do that on unsurveyed land.

Q. Wasn't there some surveyed land out there you could take under the Timber and Stone Act, that would have had good timber on it?

A. Yes, sir. Not in that township, no, sir, not in that township.

Q. Well, I mean in the same township that you are farming.

A. Yes, sir.

Q. A good deal of that land was taken that way, wasn't there?

A. There was some land taken that way, yes, sir.

Q. And some of it taken by homesteads?

A. Yes, sir.

Q. Taken a good deal like you tried to take this quarter section homestead—the same way?

A. No, sir. The homesteads that have been proved up in there, that is, outside of some three or four, has all moved their families onto them, and proved up onto them proper.

Q. But when they proved up on one of those finest timber quarters, they sold out to timber people, didn't they?

A. Why, they was forced to, yes, sir.

Q. You mean forced to, because they could get a good price for the timber and do better by selling it?

A. No, sir. No. They were pretty near forced to on account of the railroad Company owned the odd sections around them, and they couldn't get settlers in there to help them develop the country, and have schools for the children, and the like of that.

Q. They usually sold out about as soon as they proved up, didn't they?

A. No, I know several homesteads that is still owned by the parties that homesteaded.

Q. Yes, I know there are a few?

A. Yes, sir.

Q. But those that got good timber, as soon as they got their title, why, they got a good offer and they sold out a couple of years ago, didn't they, most of them?

A. Well, there is part of them sold out, yes. There is part of them sold out.

Q. What did they get for those timber quarters, generally, that they sold?

A. Well, I couldn't tell you. The price has varied a good deal.

Whereupon witness testified, that he could not tell that he knew of very many homesteads outside of this Bodiker place which was sold, who got something like ten thousand dollars for his place. He had two hundred and eighty odd acres in there. Bodiker bought some railroad land in there, and sold to Robert Shaw for the Curtis Lumber Company. Shaw was manager of the Curtis Lumber Company and has put forty acres of orchard on the land now. He could not tell whether they bought that land for the timber, but Shaw was superintendent or manager of the Curtis Lumber Company, and he thinks lives at Albany, but he don't know. The Curtis Lumber Company does business up there along at Detroit and along the river, and owns thousands of acres of timber lands in that country.

Whereupon, upon redirect examination, witness testified, that this homestead or settlement that he had on the unsurveyed land was beyond the eastern limits of the grant in range 4, twenty-five miles from the railroad. The railroad runs through sections 25 and 35, and is about three miles from section 3, township 10 south, range 2 east. In township 9 south, range 2 east, the railroad runs through the corner of section 35, and also the corner of section 25, and this settlement that he had in 4 east was about twenty or twenty-five miles from a school house. This railroad land that he tried to buy in sections 25 and 35, in township 9 south, range 2 east, is about a half a mile from a school. The applications that he made to purchase land from the railroad company were in 1896, along there, and it was quoted to him at something like fifteen dollars an acre—the exact price he does not remember. He made three applications for railroad land. He did not apply for the second one before he had received an answer to the first. After he got his answer, he would write about another piece. The company never said in the letters that there was none of the land for sale when it answered his letters, they said that the piece of land was not for sale, and so he would write about another piece, and in this way he happened to write about the three pieces. One of these tracts contained no merchantable timber, in section 25, on the Linn county side. On the Marion county side, there is a little scrub timber on it, but on the Linn county side there is comparatively no timber at all. There is some small fir, that is, brush four or five inches through, and very thick

hazel brush and dogwood, such as that. Probably sixty or seventy acres of that quarter could be put under cultivation. Bodiker owned some railroad land, bought some railroad land there, he could not say how long he lived up there. Bodiker was in there when they went to the country and he could not state how long he lived there. Bodiker has sold and moved out a couple of years ago, and bought a place down in the valley, on the railroad. The Bodiker place was an old settled homestead, homesteaded years ago, somewhere along in 1882 or 1883, he is not positive about that, and it was sold about two years ago. Shaw is putting out a forty acre orchard there, with apples, and he understands that he is putting—he hasn't it set out yet, but witness understands he is going to put out some pears, and he was talking with the man on the place a month or six weeks ago and the man said they hadn't set out anything only apples. Witness doesn't know about their pears, they have some fruit on it. Bodiker had quite an orchard there when he sold the place. That homestead was timber land. It was right up on the mountain, the highest point there is around there within quite a little ways of him, and right in the heavy timber. Bodiker went in in the heavy timber and took that up, and burned up the timber that he cut from his place in clearing.

Whereupon, upon recross examination, witness testified, that Bodiker got about ten thousand dollars for his land. He could not tell how many million feet of timber was left on it. Part of it was heavy timber, though. Bodiker burned the timber off of the land he cleared up

and cleared something like sixty acres, he does not know just how much, that was from 1882, down to the time he sold a couple of years ago.

Whereupon ANDREW ANDERSON, called as a witness on behalf of complainant, being duly sworn, testified, that he is sixty-one years old and resides at Scappoose, Columbia County, Oregon, and has lived in that county twenty-eight years. Prior to the time he went to Columbia county, he was in Baker county about two months. He was born in Sweden, but is a naturalized citizen of this country. The first year after moving into Columbia county, he worked around farms and one thing and another, but he was not there two months before he started to get a homestead. He made his filings in February, 1885. His homestead is located about six miles from Scappoose by the road. It was timber land when he took it up. He has cut the timber down, burned it up and cleared the land, and has now about ten acres under plow, about forty or fifty acres burned over and seeded down for pasture. He lives on his homestead and has made it his home since he first took it up. He is a bachelor. He raises most anything on his homestead there that can be raised around the country, grain, wheat, rye, oats, barley, peas, vegetables, some apples, some pears, some plums and prunes. He has done nothing else besides farming since he took up that land. Referring to "Defendants' Exhibit 259," there is some railroad land in sections 9 and 5, township 3 north, range 2 west, and some in section 19, township 3 north, range 2 west, and there is section 1 in township 3 north, range

3 west, with which he is acquainted. He is somewhat acquainted with those townships, but not so that he could describe them all. In township 3 north, range 3 west, he is acquainted with nothing but sections 1, 2 and 12. After the timber is taken off and the land is cleared, in his opinion 50 per cent of that land could be put under the plow, take the whole country,—some sections more and some few less. He is acquainted with lands of the railroad company generally in township 3 north, range 2 west. In section 5, for instance, there was a man who bought some land there, and he helped him to do some work on it, so he knows the land, and in section 5 he has been all over that several times, in section 5, township 3 north, range 2 west. In section 9, he knows there is one hundred and sixty acres that was taken before the railroad company got the land, which he is acquainted with and also the land down in there. He does not include in his estimate the land that the railroad company did not get, but take it all over in township 3 north, range 2 west, he would think there would be 50 per cent of the unsold lands of the railroad company, in his opinion, that could be rendered suitable for cultivation. He is not acquainted with any of the other lands in this railroad area in Columbia county. There are similar lands under cultivation in the community of these railroad lands. The lands of the railroad company with which he is acquainted in township 3 north, range 3 west, have no timber, neither section 9 nor section 5 in that township has any timber to amount to anything, they have only brush. In township 3 north, range 2 west, that is section

1, the north half of that is heavily timbered, and the south half there has very little timber. There is no timber on the railroad land in the other townships that he has mentioned. He is acquainted in township 3 north, range 3 west, sections 1, 2 and 12. Section 1 ought to be about six miles from Scappoose, he thinks. He applied to purchase some land of the railroad company—he applied, but gave it up. It was in December of 1907. The land that he applied for was in section 1, township 3 north, range 3 west, the southeast quarter. Prior to filing his application, he had never done a thing to the land, only went there once and put up a notice, and was over the country. The company replied to his application to purchase land that it was not for sale.

Whereupon, upon cross examination, witness testified, that E. E. Quick of St. Helens prepared the papers for him when he applied for the land, using a printed form. He applied for it under the two and a half an acre clause as an actual settler. He put a notice on the property before he had Quick do the business for him, that is, he posted a notice on the quarter section. He was not advised to do that by Quick. He had done that before he took any advice from Quick. This two dollars and a half an acre business was spoken of all over the country, that one could apply for a quarter section and the company would be forced to sell to the person, providing the land went back to the Government. That became generally known all over the country about the summer of 1907, he thinks, and there was quite a rush to get these timber claims under that. Two men got a

section, one came after him and took it, one got his and put a notice on top of his. On this quarter section that he took, there was about a million and a half feet of timber. He had a homestead of one hundred and sixty acres and wanted another homestead, and if it was going at two dollars and a half an acre he wanted to get another place to settle on. He never did a thing on this hundred and sixty acres out there. While he was proving up and living on his homestead down near Scappoose, about six miles west of Scappoose on the Scappoose creek, he worked out around the first three years and did that to get something to live on, and after that he had a cow or two and a little garden and made his living on the place. He sold some timber off of the place in 1905 to W. O. Jeff, since incorporated in the name of the North Coast Lumber Company, in Boston. It was fir and cedar, he sold a little over two million feet. There was about 150,000 feet of cedar. He sold his cedar too quick, he got only fifty cents for the fir, and seventy-five cents for the cedar, and if he had held it a year he could have just doubled that amount, he could have got a dollar for the fir if he had held it a year, and a dollar and a half for the cedar. They logged it off. He run a fire over that and seeded it down to grass, and now keeps stock there. He has only three cows on there. This homestead is not all fenced, it doesn't need to be fenced. He has fenced what he needs for plowing purposes, about ten acres, and makes his living by stock and by farming. He sells some forty, fifty or sixty sacks of potatoes a year raised on this ten acres, and then he runs his cream down to the

creamery and gets about twenty dollars a month for cream from his cows. His stock pastures right on his ranch. His stock has not left the ranch for the last two years. They cannot get up into the deep woods, and below he has a fence. It is heavily timbered, and the cattle do not know that he has no fence. He is acquainted with only one section, with section 1, in township 3 north, range 3 west. The south half, in his estimation, has about 300,000 feet of saw timber on it, and the north half ten or twelve million feet on it, that is a pretty thick heavy set of timber. Take the whole country through there, he thinks it will average about four million feet to the quarter section, that is in township 3 north, range 3 west. He knows sections 1 and 7, he had forgotten 7, in township 3 north, range 3 west, which is all of the railroad land that he knows in that township. Section 7 will run about fourteen or fifteen million feet to the whole section, about three and a half million to the quarter section, in his estimation. He does not know any other section in township 3 north, range 3 west. He knows sections 5, 7 and 9 in township 3 north, range 2 west. On sections 5 and 9 there is no timber at all, and section 7 is as he has already stated. Sections 5 and 9 have not been logged off, but have been burned off, kept burning off until everything was gone, only some brush remains. It was a clean country twenty-five years ago, and now it is all overgrown with young fir. It is a second growth fir, on this old burn, and runs from six inches, he would think, and there is some that would be a foot and larger, and one hundred feet high or more,

and they have grown up in twenty-five years. He thinks that this second growth fir in that country there would reach one hundred and fifty feet high, and some of it eighteen to twenty inches at the butt, in fifty years, judging from the way it has grown. Sections 5, 9 and 7 in township 3 north, range 2 west, are all that he can describe. Section 9 is of the same kind as in section 5—burned off. There is second growth fir growing on that, thick enough so one can hardly get through where it is left alone. As they grow larger, they grow slower. In twenty-five years more, it would not have three million feet on it, but ultimately it might have three or four million feet on it. Take the whole country through after the timber is removed and the stumps taken out, about 50 per cent of it could be farmed. Very little of it is rough or rocky. Some of the land would run less than 50 per cent, and some would run more. He thinks it would average about 50 per cent that could be farmed after the timber is removed and stumps taken out, that could be plowed. He is five miles from the railroad in a straight line. That railroad was there when he came in 1884, but no train was running on it. That was the Northern Pacific at that time, running between Puget Sound and Portland, when they used to cross down at Goble, across the Columbia River, and now it is the Astoria and Columbia River Railroad Company, or the Spokane, Portland & Seattle, and he thinks there are about three trains each way, passenger trains, and he does not know how many freights. He thinks that country around Scappoose has been settled for fifty years.

These railroad lands are mostly back in the foothills and in the mountains. That part down next to St. Helens and Scappoose and through there has been taken up under the donation law, excepting here and there a homestead. There is a road from Hillsboro through the mountains over into Columbia county, by way of Scappoose, out to Washington county. That road goes from Scappoose and over the mountains, but that was vacated years ago. There are two roads in there now. One goes to South Scappoose Creek, and crosses over the mountains to Washington county, and the other starts from Rock Point and goes over to Washington county, but all get finally over to Hillsboro.

Whereupon, upon redirect examination, witness testified, that these roads he referred to are county roads, wagon roads, not logging roads.

Whereupon T. W. GRANT, a witness called on behalf of complainant, being duly sworn, testified, that he is fifty-seven years old, and resides in section 17, township 3 north, range 2 west, in Columbia County, Oregon, and has resided in that county about thirty-seven years. A good portion of the time while he has been a resident of that county, the first part of the time he was a day laborer, hauling cordwood. He has followed farming and timber, farming and dairying at the present time, in a small way. His land which he is now farming is near the Washington county line, in section 17, township 3 north, range 2 west, and he has eighty acres of railroad land. In 1880, he purchased one hundred and twenty acres from the railroad company in

section 17, on contract, and his mother purchased one hundred and twenty acres adjoining him in the same way, at his suggestion. In 1885 he sold his contract and went to southern Oregon. Returning in the Fall, he purchased from his mother eighty acres, under arrangements made with her, and was to pay her what she had paid on this land, return the money she had already paid out, and he was to continue the annual payments, which he did, but there were no papers made out, no legal transfer made until after she obtained her deed from the company. As soon as she obtained her deed from the company, she deeded eighty acres to him that he had paid for. He grows on that place principally, hay, because he is keeping cows, but he grows almost all kinds of vegetables for family use, and corn and kale. He is a married man, has a wife and four children. He owns only this eighty acres, and he is making his living there now from that land and his cows. He keeps five and six cows, and is adding to them each year, and expects to enlarge it as he enlarges his dairying. He has a separator, and his cream is delivered to the skimming station there and shipped to Portland. The dairying business is carried on quite extensively in that community in which he lives, and that community is considered a dairy country. They have been engaged in the dairying business in that country a few years. Four or five years ago he had about four cows. He followed that about two or three years and did not have cows enough, he thought, to make it pay, and sold them out, and then started in again about a year ago, purchased five head, kept five and six head of

cows. This eighty acres he obtained from the railroad company, or which his mother contracted for, was brush and timber. There was some timber on it, but they called it brush land. He is really not much acquainted with any of the railroad lands excepting in section 17. He is pretty well acquainted with that, all over south of there. He has been over the land in a general way, but he knows nothing about the lines, just the country in general, in a general way, used to hunt up there considerable. That is in township 3 north, range 2 west. He has a general knowledge of the country around his home place, and has been over, in a general way, perhaps three or four miles south of him. He was only over that occasionally, perhaps once or twice a year, carrying his gun and hunting deer. He noticed the lay of the land and the character of the soil and the growths that were on the land on these trips, and he would judge that there is about 50 per cent of that land with which he is acquainted that would do for what they call tillable land, would be level enough to be tillable land, and then there is probably 45 per cent of it that would do for pasture if the brush were slashed off and burned, which is in addition to the 50 per cent that could be tilled. He would think there was at least five per cent that would be no good for anything. There are similar lands which are cultivated and there are farms in his vicinity, and there are some farms there within that radius, of the same general character of lands. The lands vary somewhat, some of them, perhaps, might be poorer, but some just as good or perhaps a little better than his land. He would think that his would be

about the average. Some lands would perhaps be a little more level than what he has, and then, perhaps, there are others again that would be a little rougher than his. These lands have timber in spots, streaks, and there are places that have nothing but brush, and there are other places again that are mostly burns—with very little brush on them. He is referring to the lands about him there in this area.

Whereupon, upon cross examination, witness testified, that his mother and he bought this railroad land about 1880 or 1881, he is not positive which. He had one hundred and twenty acres and she had one hundred and twenty acres, and they paid two dollars and a half an acre for the land, in ten installments. At the time they bought this land, none of it was cleared. He would judge that he had cleared about fourteen or fifteen acres of this eighty acres, and the balance he uses for stock to range over mostly, some of it, three or four acres is slashed and seeded to grass. There was some saw timber on his eighty, which he sold a few days ago for a lump sum. He believes he got two hundred dollars for his saw timber. It was sold about 1896. His mother kept forty acres of this railroad land until a few years ago, when she gave it to his sister and brother. There was timber on the north part of it, some of it was good saw timber. He could not say how much saw timber they had, he is not used to estimating the timber. This eighty which he owns is in section 17, township 3 north, range 2 west. He could not say only in a general way what railroad land he is acquainted with besides this section 17.

He does not know anything about the lines or the township lines, and could not say anything about the numbers. That which he has been over is in Washington county, three or four miles from his place. Some of that country that he has been over there has no timber at all. Some of it, after one gets pretty well south, has some timber on it. He is about four and a half miles from the railroad. His station is Scappoose. He is west of Scappoose, and lives about a half a mile from Mr. Anderson. "Q. Then all the railroad land that you really know anything about then is in this section 17? A. Yes, sir, that is all that I could speak anything about there." He would judge that 50 per cent of his land would be tillable, and of the balance 45 per cent would be pasturage if it was cleared off, and 5 per cent of no value, that would be a fair estimate and that would apply to the whole section 17. He couldn't hardly say positively if there is any railroad land in section 17 that is unsold. There is a great deal of that land in that vicinity which is owned by non-residents. These non-residents are not all timber people. A great deal of their land is unoccupied. Of course, there is some of this section settled up besides what he has—settlers living there. He never took a homestead. He knows the east half of the southwest quarter of section 17, township 3 north, range 2 west, and a part of that would make good pasturage; it is somewhat rough, no timber on it, it is second growth and it is not large enough for anything, it is sort of a scrubby growth. The northeast quarter of the southeast quarter, containing forty acres, is very good land, there is no tim-

ber on it, except second growth—most all second growth. It was burned over several years ago and a new growth has come up again. He would think this second growth would average about eight or ten inches. He delivers his cream to Scappoose, to the skimming station there, this creamery they ship to has an agent, receiving agent there at the old creamery plant, they take the milk there and the agent does the shipping, they have nothing to do with the shipping. That is what he means by that being a dairy country. They used to have a creamery located there, they sell now to the Oregon Cream Company in Portland. He could not say how much cream is shipped from Scappoose Station. There is a good deal shipped, and then there is a good deal shipped from Scappoose itself, where they are shipping is called Johnson's Crossing, and is perhaps a mile and a half or two miles south of Scappoose on this North Bank railroad, now the Spokane, Portland & Seattle. That railroad has been there ever since 1883. The country around Scappoose is comparatively level, and in five or six miles one starts in to get to the hill land, bench land they call it, and then a little further back into the mountains. The Columbia River is eight or ten miles east of Scappoose. They have the Willamette Slough there where they are—they live on the Willamette Slough. There is a good deal of stock on the Willamette Slough. Between the railroad and the Columbia River, there is a great deal of cattle, and a good deal of cream comes from that section.

Whereupon, upon redirect examination, witness testified, that he does not mean exactly that he is not ac-

quainted with railroad land other than in this section 17, but he does not know exactly what the other is. He is acquainted with other sections. He is well acquainted with land for about three or four miles around where he lives, and he has testified concerning his opinion as to that territory, as to the percentage that could be cultivated. Some of the other may be railroad land, but he does not know anything about the number, or the lines.

Whereupon, D. McLAFFERTY, called as a witness on behalf of complainant being duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Townsend:

Q. Mr. McLafferty, you are one of the cross complainants in this case, are you not?

A. Yes, sir.

Q. You are one of the persons who instituted suit against the Oregon and California Railroad Company and others, for the purpose of compelling them to sell you 160 acres of land which you had applied to purchase?

A. Yes, sir.

Q. And Mr. Lafferty was your attorney?

A. Yes, sir.

Q. And is your attorney?

A. Yes.

Q. How long have you lived in Oregon, Mr. McLafferty?

A. Four years and a half.

Q. And where did you live prior to that?

A. Aberdeen, Washington.

Q. How long did you live there?

A. Nearly 20 years.

Q. What business have you been engaged in, Mr. McLafferty?

A. Wall paper hanging business; wall paper hanger and painter.

Q. When you moved over into Oregon, to what point did you first come?

A. I went out on this Section 25, 4 North, 3 West.

Q. What part of the section?

A. Northeast quarter.

Q. And when was it that you went there?

A. In the spring of 1908.

Q. The spring of 1908?

A. Yes, sir.

Q. Since that time have you been over that township to any extent?

A. Somewhat.

Q. How about any of the adjoining townships?

A. Only to a slight extent in the township south.

Q. That would be 3 North, 3 West?

A. 3 North, 3 West.

Q. Now do you know where the railroad lands are situated in a general way in this township 4 North 3 West, and which are involved in this case?

A. I only know, not definitely, I only know of some few sections where other settlers have gone.

Q. You know of the tract which you yourself have settled upon, of course?

A. Yes, sir.

Q. And some other similarly situated, I understand?

A. Yes.

Q. Speaking in a general way, now, Mr. McLafferty, what is the character of the soil in that township?

A. The soil is what is known as a shot soil, deep, rich, mellow soil.

Q. Have you seen any demonstration as to what the soil will produce?

A. Yes, sir.

Q. In that same township?

A. Yes, sir.

Q. On the railroad lands or lands adjoining, or both?

A. Both.

Q. To what extent are the even numbered sections settled in that township?

A. They are all settled, as far as I know.

Q. How about the even numbered sections, adjoining this Section 25 that you settled upon?

A. All settled.

Q. To what extent have they made clearings of the even numbered sections, and removed the stumps and reduced the lands to cultivation?

A. So far as I have been over these even numbered sections, the settlers have made their homes and cleared, oh, from five to twenty acres, perhaps.

Q. What kind of crops are they growing on the cleared land?

A. They are not living there now. They have sold to the Chapman Timber Company, but there were orchards, apples, pears, plums on two of them that I know of.

Q. Now, there is pretty heavy timber in that township, isn't there?

A. Somewhat, yes, sir.

Q. That can be said generally of the entire township?

A. Yes.

Q. The Chapman Lumber Company, is that the same concern that Mr. Quick referred to in his testimony the other day?

A. I don't know that I heard Mr. Quick.

Q. Oh, you were not in the courtroom when Mr. Quick gave his testimony.

A. I think not. When was that?

Q. Well, it was about ten days ago.

A. No, I didn't hear it.

Q. Now, have the even numbered sections been logged off to any extent in that township?

A. They have been, part of them being logged now.

Q. How about the township south of you—I mean the section south of you; south of 25.

A. South of 25 is 36, a school section, owned by the Chapman Timber Company, not logged.

Q. Is any of the land adjoining yours logged?

A. Yes.

Q. Which way?

A. North half of 30 on the east of me is logged. All of Section 24 on the north is logged. They are operating now on 26, on the west of me, on the west of 25.

Q. Do you know what the Chapman Lumber Company are doing with this land after it is logged off?

A. They are selling it.

Q. Do you know what they are getting for it?

A. I understand they are selling at prices all the way from \$20 to \$60 an acre.

Mr. Fenton: I move to strike out the answer as hearsay.

Q. Is that with the stumps in or with the stumps cleared?

A. That is with the stumps in, just after logging.

Q. Do you know who is the manager of that company?

A. The manager of the camp?

Q. Of the Chapman Lumber Company?

A. Yes, sir, Mr. James McNaughton is the superintendent of the logging camp.

Q. Is there a man by the name of Chapman who is connected with it?

A. I understand there was until perhaps a couple of years ago and he sold his interest to other parties.

Q. Do you know whether Mr. McNaughton has taken any of these logged off lands?

A. Mr. McNaughton told me a few days ago he had bought a quarter section of this logged off land.

Mr. Fenton: I move to strike out the answer as hearsay.

Q. Have you seen very much of the logged off land, enough of it so as to acquaint yourself with the character of the land?

A. Oh, yes, yes, sir.

Q. How is it there as to being rough or level?

A. It is somewhat rough, part of it, other portions are comparatively level.

Q. In your judgment, what percentage of that township could be cultivated after the timber is removed, and the stumps taken out?

A. You mean brought under the plow?

Mr. Fenton: The entire township you mean?

Mr. Townsend : Yes, so far as you are acquainted with it.

A. Well, so far as I am acquainted with it.

Q. Brought under the plow or otherwise cultivated.

A. So far as I am acquainted with it, possibly 75 per cent—60 or 65 or 70 per cent could be plowed. The whole of it—I call the whole of it agricultural land, because it would make the finest of pasture.

Q. Is there any waste land there in that township that you know of, to any considerable extent?

A. No, no. Do you mean rocky land by waste land?

Q. Yes.

A. No, not that I know of.

Q. Any land which, by reason of the character of the soil, is waste land?

A. No, sir. The soil is all of the same general character, shot soil.

Q. Are you still maintaining your home there?

A. Yes, sir.

Q. Have you any home elsewhere?

A. I have not.

Q. Have you made any experiments yourself as to

the use of that land for agricultural purposes or horticultural purposes?

A. Yes, sir, I have.

Q. What have you done in that respect?

A. I have about an acre under cultivation and in garden, vegetables, potatoes, corn, tomatoes, beans, squash, turnips, carrots, parsnips, onions, strawberries, raspberries—fruit trees.

Q. Have you fruit trees set out?

A. Yes, sir.

Q. How are they doing?

A. Fine.

Q. How old are they?

A. They have been set three years.

Q. Strawberries producing?

A. Strawberries produce finely. I had a patch of strawberries last year, 40x50 feet. The rows are 40 feet long and the patch was 50 feet wide. I picked 20 crates of strawberries from that patch, nice berries as you ever saw—nice as I ever saw. I sold about \$22 worth to parties who came right to my door and took them away. This year I had just as many berries, but the market was down. I didn't sell berries this year. I bought some fruit jars and some sugar and canned the berries and sent them out, shipped them out to my boys in Aberdeen. I shipped two barrels of canned strawberries, packed in moss.

Q. Packed the cans?

A. Yes, the cans packed in moss. Strawberries were only worth a dollar a crate up there this year.

Q. Now, when did you apply to purchase this land from the Railroad Company?

A. In April, 1908.

Q. To whom did you apply?

A. Well, now, that I couldn't say. I went to what is known as the railroad offices in the Wells Fargo Building.

Q. Yourself?

A. Yes, sir, the land office.

Q. Do you know the name of the officer?

A. I do not.

Q. Your application was rejected?

A. Yes, sir.

Q. I will ask you whether you applied to buy that land with the intention of making a home of it?

A. Yes, sir.

Q. I will ask you whether that is still your intention, if you can secure the land?

A. It is.

Q. Is there considerable timber on the quarter section that you applied to purchase?

A. Well timbered, with the exception of about two acres in this little burn, where I built my house—about

two acres where the fire had burned the timber off.

Q. Have you cut down any of the timber yourself?

A. Very little; a few trees—two or three trees that threatened to fall on my cabin. I cut those, and then other dry trees, stubs.

Q. What did you build your cabin of?

A. Cedar logs, split logs standing on end. First a sill and then split the logs eight feet long, split them in half and stood the logs on end with flat siding, and then plate on the top.

Q. Where did you get the logs?

A. Got them right there on this burn.

CROSS EXAMINATION.

Questions by Mr. Fenton.

Q. Mr. McLafferty, what is your first name?

A. David.

Q. What is the description of the tract you applied to the company to purchase under this Act of May 4, 1870?

A. The northeast quarter of Section 25, 4 North, 3 West.

Q. How did you happen to select that particular quarter section? Who selected it for you?

A. Mr. Snyder, John L. Snyder.

Q. Who was John L. Snyder, a timber cruiser?

A. I don't know whether he was a timber cruiser or not. I could not say.

Q. When did you say you went onto this land?

A. In April, 1908.

Q. Were you there on October 4, 1908?

A. Yes, sir.

Q. Have you a family?

A. I have a wife.

Q. Was your wife with you there at that time?

A. My wife was there with me.

Q. I show you a couple of photographs of "Defendants' Exhibit 270," Nos. 91 and 92, purporting to be taken by Fred H. McClure on October 4, 1908, and first look at No. 91, and say whether that is a fairly good view of your cabin as it was on that date.

A. Yes, I recognize that.

Q. Does that show the extent of the improvements that you had at that time, your clearing, etc.?

A. No, sir, it doesn't show the clearing. It shows the cabin.

Q. Where is the clearing where you had your garden?

A. Farther here to the right.

Q. How far away from the cabin?

A. Well, it is 100 feet, perhaps.

Q. Now, look at 92, and I will ask you if that is a

good picture of your cabin, the other side of it, showing the notice posted on the side there?

A. Yes, sir.

Q. Did you put up that notice?

A. Taken the same date. I did.

Q. Were you there when these pictures were taken?

A. Yes, I was.

Q. Was your wife there?

A. She was. The photographers refused to allow us to be in the picture.

Q. You do not appear in the picture?

A. No, sir, they wouldn't let us to be in the picture.

Q. Did you want to be in the picture?

A. I did, most certainly. And I wouldn't do that again. If a man comes to take a picture of my home, I shall certainly be in it.

Q. Well, now, then, what did you offer to pay the company for this land?

A. \$2.50 an acre.

Q. How many million feet of timber is there estimated on there?

A. I don't know. I have been told the cruise was 10,000,000.

Q. Well, 10,000,000 of good merchantable saw timber?

A. I suppose so, yes, sir.

Q. Who told you there was 10,000,000 on there?

A. The man who is located on the southwest quarter told me.

Q. Who is that?

A. Mr. Witte—Fred Witte.

Q. When did he locate?

A. I think he located the year before I did.

Q. But under the same offer of \$2.50 an acre?

A. I think so.

Q. And the same statute. And it was a timbered claim that he got, was it?

A. Yes.

Q. Now, where were you living before you went out and attempted to settle on this quarter?

A. I was living—I had been living in Port Townsend the year before, Washington.

Q. How did you happen to come over here and go out on this timber quarter?

A. Well, I heard of other settlers who were going.

Q. You heard of other people who were serving these notices?

A. Yes, sir, settling on railroad lands.

Q. Yes. And it was following the agitation in 1907, and you were one of a great many that went out there on these railroad lands?

A. I don't know of a great many.

Q. Well, how many went out there in your neighborhood?

A. About 30 in our township.

Q. In this township?

A. Yes, sir.

Q. Now, did you all go out there about the same time?

A. I could not say.

Q. Well, didn't you all go out there in the spring of 1908?

A. I don't know.

Q. How many went out about the time you did?

A. Oh, I don't know of more than half a dozen, five or six who went out there that spring. I think the most of these settlers in the township had settled the year before.

Q. Do you know Edgar McLafferty?

A. Yes, sir.

Q. Who is he?

A. My brother.

Q. Well, did he settle, or attempt to settle under the same way that you did, on the southeast quarter of Section 25, Township 4 North, Range 3 West?

A. Yes, sir, and at the same time.

Q. And he built a cabin, too, didn't he?

A. Yes, sir.

Q. Is he still living there?

A. Not there permanently, no.

Q. How long in the year does he stay there?

A. How?

Q. How much of the year does he spend there?

A. I couldn't say.

Q. Don't you know he hasn't been there in the last two years?

A. I think he was in there a year ago this summer.

Q. Stayed just a little while?

A. I don't remember.

Q. Now, don't you know he didn't stay there over ten days?

A. He might not.

Q. And he hasn't been there since, has he?

A. Not that I know of.

Q. Where is he now?

A. He is in Aberdeen.

Q. Gone back to work over at the Aberdeen mills?

A. No, he don't work in the mills.

Q. Well, he has gone back home then, to work?

A. Yes.

Q. Is he a man of family?

A. He is.

Q. Did he take his wife in there?

A. Yes, sir.

Q. How long did she stay?

A. I couldn't say as to that.

Q. She stayed there about a week when they built the cabin?

A. No, she wasn't there when they built the cabin.

Q. She wasn't there over a week all together, was she?

A. I couldn't say as to that. She was there somewhere from one to two weeks.

Q. And she has not been there since?

A. No, sir, she is a cripple.

Q. I know, but she has not been there since?

A. She is not able to go.

Q. I show you Nos. 89 and 90, purporting to be photographs of the cabin of Edgar McLafferty, on the southeast quarter of Section 25, taken by Fred H. McClure October 4, 1908, and ask if you recognize those as his cabin, pictures of his cabin and the surrounding country?

A. Yes, those are pictures of his cabin.

Q. They are fairly good pictures, are they not?

A. Yes, sir.

Q. Of the cabin and of the surrounding country?

A. Yes, sir.

Q. Did you see them taken?

A. I did not.

Q. Who is B. N. McLafferty?

A. He is my son.

Q. Well, did he go out there about the same time you did?

A. A little later.

Q. Well, he apparently has a cabin on the southeast quarter of Section 1, Township 3 North, Range 3 West.

A. I believe so.

Q. Well, is he a single man?

A. No, sir.

Q. Is he a married man?

A. Yes, sir.

Q. Did he take his family out there?

A. He did.

Q. When did he take his family out there?

A. Soon after he made settlement, he built his home, built his cabin.

Q. When did he make the settlement?

A. I am not sure whether it was—it was a few weeks after I went down—perhaps in the latter part of May or in June.

Q. Did he get a good timber quarter?

A. Why, said to be about 3,000,000 feet on that

quarter, I think.

Q. Has he been there the last year or two?

A. Yes, sir.

Q. Is he there now?

A. No.

Q. When did he leave. When was he last there?

A. He was there in September.

Q. How long did he stay when he was there?

A. A couple of weeks.

Q. And was he there the year before?

A. Yes, sir.

Q. How long was he there?

A. I could not say.

Q. A couple of weeks?

A. Perhaps a couple of weeks.

Q. And was he there the year before?

A. Yes, sir, every year.

Q. He was there a couple of weeks?

A. Every summer.

Q. Well, now, how much has he cleared?

A. He has not cleared, to cut down timber, cut down heavy timber, he has not cleared but very little.

Q. Did he have a garden there?

A. Yes, he had.

Q. When did he put the garden in?

A. He planted potatoes that fall.

Q. In September?

A. The first fall, yes, I think so.

Q. And those potatoes ripened next year?

A. Yes, sir.

Q. Winter potatoes?

A. Yes, sir.

Q. Plant potatoes in the fall out there?

A. Plant potatoes in the fall—hoe potatoes in the fall.

Q. How many potatoes did he plant?

A. Oh, not very many.

Q. About five or six?

A. Oh, no, he planted a patch nearly as large as this room.

Q. What did he do with them?

A. Used part of them there.

Q. When he was there during the two weeks the next year?

A. Yes, sir.

Q. And he batched there, did he?

A. He had his wife there.

Q. They were having a little summer vacation of

about two weeks in September?

A. You might call it so.

Q. Where did they go to? Where did they live when they were at home?

A. Aberdeen.

Q. I show you numbers 85 and 86, purporting to be pictures of the cabin of B. N. McLafferty, taken on October 3, 1908, and ask if you recognize those as good photographs of his cabin, two different views, and of the location around them?

A. Yes, sir, somewhat.

Q. Now, how much timber was there on the claim of Edgar McLafferty, Southeast quarter of Section 25?

A. Well, I don't think it is as good as mine.

Q. How much is yours? Yours is about 10,000,000?

A. They say about 10,000,000.

Q. His has about 8,000,000?

A. I presume so.

Q. About 8,000,000. Well, now, who is George E. McLafferty?

A. George E. is a nephew of mine. He is a son of Edgar.

Q. Where did he come from, Aberdeen?

A. He is living in Aberdeen. He is working there in Aberdeen now, yes.

Q. Well, now, he took the northeast quarter of Sec-

tion 1, Township 3 North, Range 3 West. How much timber did he get on his place?

A. I don't know.

Q. About 3,000,000 or 4,000,000?

A. There is as much as that, I presume.

Q. It is a good timber claim, is it?

A. Yes, sir, fairly.

Q. I show you pictures, Numbers 82 and 83, purporting to be taken October 3, 1908, of his cabin there in the woods, with a notice on the front door.

A. Yes, sir.

Q. I will ask you if that is a good picture of two different views of his cabin?

A. Yes, that is his cabin. It does not show his clearing.

Q. How much did he clear?

A. He has cleared in front of his cabin there, which would be back of the position from which the picture is taken, oh, a quarter of an acre, perhaps.

Q. What did he raise?

A. Potatoes, vegetables.

Q. When did he plant his potatoes, in the fall?

A. I couldn't say. I don't know.

Q. How long has he been there—two weeks?

A. No, sir. He was there all the first summer and

all that winter, and part of the second summer continuously.

Q. Is he a man of family?

A. He was not then. He was a single man then.

Q. Where did he go and marry?

A. He married here in Portland.

Q. And then took his wife where?

A. He took his wife there on the claim and lived the next summer.

Q. And then he went away?

A. Now they are in Aberdeen.

Q. And they have not been back since?

A. No, they have not been there this summer.

Q. How?

A. They have not been there this past summer.

Q. Who is E. L. McLafferty?

A. He is my son.

Q. He appears to have applied for the northeast quarter of Section 1, Township 3 North, Range 3 West.

A. Yes.

Q. Did he get a first-class timber claim?

A. About the same as George E. They joined.

Q. About how many million feet on that?

A. I don't know.

Q. Well, estimate it.

A. The timber is about the same as the northeast quarter.

Q. About 8,000,000?

A. Oh, no.

Q. 4,000,000?

A. Possibly.

Q. I show you what purports to be photographs Numbers 80 and 81, taken by Fred H. McClure, October 3, 1908, showing the cabin of E. L. McLafferty, and the timber with two different views, and ask you if you recognize those as fairly good pictures of the two views of his cabin and the surrounding country?

A. Yes, sir. That is a picture of his cabin.

Q. Now, is he living on that at the present time?

A. During the summers, yes, sir.

Q. They come there in the summer time and then they go away?

A. During the vacation, and then they go out to get their children in school.

Q. How many weeks in the summer do they stay?

A. Oh, they have been there from four to six weeks.

Q. And where do they go then?

A. Aberdeen.

Q. How far is Aberdeen from this land?

A. About 100—oh, 120 miles, I should say.

Q. How far is this land from the railroad?

A. Why, by the way of the camp, by the way of the Chapman Timber Company's road and camp it is about 13 miles. You are speaking of this particularly?

Q. Yes.

A. Well, that is, oh, let's see—I think it would be about 12 miles by the road and trail.

Q. Any wagon road to these claims?

A. No, sir, not to his claim.

Q. Any wagon road to your claim?

A. After I built it. I built a road for myself.

Q. What do you get into then?

A. How?

Q. What road do you get into?

A. Why, there was an old county road up to, as far as where the Chapman Timber Company's old camp is now. Then there was a road from there to one of these old homesteads.

Q. You mean one of these old homesteads that the Chapman Timber Company bought?

A. Yes, sir, on an even section. Then I built the road from there to my cabin.

Q. What is good timber a quarter in there worth?

A. I couldn't say.

Q. What was it worth about the time you went out there?

A. I don't know.

Q. What is the stumpage worth? What does the Chapman Timber Company pay?

A. They talk about a dollar a thousand.

Q. What do the Chapman Timber Company pay for these homesteads, after they make final proof?

A. I couldn't tell you. I never heard.

Q. Most of these homestead people out there have sold out to the Chapman Timber Company, haven't they?

A. Yes, before I went there.

Q. Now, who is George McLafferty?

A. He is my son also.

Q. He appears to have applied to purchase the northwest quarter of Section 25, Township 4 North, Range 3 West?

A. Yes, sir.

Q. I show you two photographs, Numbers 93 and 94, taken by Fred H. McClure, October 3 and 31, 1908, of what purports to be his cabin, and ask you if you recognize that as two views of his cabin?

A. Yes, sir, that is a picture of his cabin, that is, with the exception that the picture of his improvements was taken before the logs were cleared up, rolled up and burned.

Q. Has he got any garden there?

A. Yes.

Q. Where is his garden?

A. Down this way, in front.

Q. How far away from his cabin?

A. Oh, it is 100 feet, perhaps.

Q. Where is he now?

A. He is in Aberdeen.

Q. Was he there this summer?

A. Yes, sir.

Q. How long did he stay there this summer?

A. His wife was there about six weeks, I think.
He was there—he has been there twice, at two different times this summer.

Q. This summer?

A. Yes, sir.

Q. Was he there last summer?

A. Yes, sir.

Q. They come every summer, do they?

A. Yes, sir, every summer.

Q. During August and September?

A. July.

Q. July or August and September?

A. July and August, yes, sir.

Q. That is when there is a vacation on?

A. Yes. They have children to go to school, they

have to get back.

Q. When the children have vacation, they come over here in the summer, and spend a few weeks on the place?

A. Yes.

Q. Then they go back to Aberdeen where they live?

A. Yes, they go back there to educate their children.

Q. Do they keep house? Do all these people keep house over at Aberdeen?

A. Yes, sir.

Q. Do you keep house over at Aberdeen?

A. No, sir.

Q. Well, now, how many of these McLaffertys are there, all of them, out there, that have taken these timber claims, as you claim?

A. There were six, I believe, you enumerated there.

Q. Did you all get together before you went out, and agree that you would go out there and take these timber claims?

A. No, sir.

Q. Who advised you to take them, all of you?

A. I don't know as any one.

Q. You are represented in this suit by Mr. A. W. Lafferty, are you not?

A. Yes, sir.

Q. The Congressman from this district?

A. Yes.

Q. Did you make these filings, applications to file or applications to purchase, under the advice or by the direction of Mr. A. W. Lafferty?

A. No, sir.

Q. What lawyer advised you to, if any?

A. No lawyer.

Q. Did you have these printed forms?

A. Yes, sir.

Q. Where did you get them?

A. From Mr. Snyder.

Q. And did Mr. John L. Snyder employ Mr. Lafferty, too?

A. I believe he did.

Q. And do you know who prepared these printed forms, upon which you made your application?

A. I do not, no, sir.

Q. Don't you know they were prepared by Mr. A. W. Lafferty after he had been back at Washington?

A. I did not know it.

Q. Well, Mr. Lafferty is still representing you in this litigation?

A. Trying to.

Q. Well, he is, isn't he?

A. Yes, sir.

Q. Have you been in attendance on this hearing, Mr. McLafferty, for some days?

A. Yes, sir.

Q. How long have you been here?

A. I have been here since a week ago Thursday.

Q. Well, then, you are interested in the result of this suit, are you?

A. I have been waiting here to give my evidence in the suit.

Q. I know, but you are interested in the result of this litigation?

A. Yes, sir, I am.

Q. Now, will you swear, under oath, that if there had not been any timber on this land at all, you would have gone out there and settled?

A. Had been no timber on this land?

Q. Yes, if there had been no timber at all?

A. And I could have located?

Q. On this quarter section?

A. Yes, sir, I would.

Q. The timber was not any inducement to you?

A. I didn't say that.

Q. What is the fact? Was it somewhat of an inducement?

A. Why, certainly.

Q. That timber claim that you got, 10,000,000 foot claim, is worth about \$10,000, isn't it?

A. I presume it is.

Q. Isn't your judgment that you have got the best timber claim in that whole country?

A. I don't know that I have.

Q. Well, you think you have, don't you?

A. It suits me pretty well.

Q. Now, isn't it a good timber claim that cruises 10,000,000 feet of saw timber?

A. Yes, sir.

Q. And that is worth \$10,000, isn't it?

A. I presume it is.

Q. And you want to get it for \$2.50 an acre from the Railroad Company?

A. Yes, sir.

Q. After it has kept it for 30 or 40 years?

A. I want the Railroad Company to sell it to me according to the terms specified in the grant.

Q. You want it as Shylock wanted his bond?

A. I don't know as to that.

Q. The letter?

A. I didn't want the whole of it. I would be perfectly satisfied with a quarter section.

A. I ought to say that that picture of my place does

not represent my improvements.

Mr. Fenton: I suppose it may be considered that these have been sufficiently identified with the testimony of the witness that these photographs are all part of Defendant's Exhibit 270?

Mr. Townsend: Yes, they have all been offered.

Mr. Fenton: Yes, I say it will not be necessary to re-offer them.

Mr. Townsend: Oh, no.

Whereupon, on re-direct examination, witness testified:

Q. Well, now, Mr. McLafferty, do you want this land if you are not entitled to buy it?

A. No, sir.

Q. Do you know whether the Railroad Company wants it whether they are entitled to it or not?

A. I think they do.

Q. Now, would you be willing to take that place—if, under the law you are not entitled to the timber, would you be willing to take that place and let somebody else remove the timber, and still have a home of it?

A. If I am not entitled to the timber?

Q. Yes?

A. Yes, sir.

Q. If you are entitled to the timber, you don't want anybody else to have it? That is your position today?

A. No, sir. If I am entitled to the timber, I want my share of it.

Q. Well, now, as a matter of fact, while the timber does add greatly to the value of it, would that make a good home even after the timber was cut off, Mr. McLafferty?

A. It certainly would make a beautiful home.

Q. Suppose it had been logged off when you went there, I will ask you whether, in your judgment, you would have been willing to have applied to purchase it in the same manner with the intention to make a home?

A. I would. Of course, it would have been more of a hardship to make a home of it without the timber, but I would have been glad to have gotten it without the timber.

Q. Now, why haven't you cut down more timber and improved more of the land, cleared more of the land?

A. Because of the uncertainty of the case.

Q. Have you understood that you had a right, pending this litigation, to clear the land of its timber?

A. I have understood so.

Q. Who advised you to that effect?

A. Mr. Lafferty.

Q. But how have you felt about taking chances on removing the timber until your rights were decided by the court?

A. Well, I have not felt willing to cut the timber

to any extent until the case was decided.

Q. Well, then, to be honest with yourself, Mr. McLafferty, you are not trying to get that timber pending this litigation?

A. No.

Q. You are not going to take any of it unless the courts declare you are entitled to it?

A. If I did, I could have taken it and sold it to the Chapman Timber Company people, having a spur running across this section that I am on.

Q. Do you know why the photographer would not let you and your wife be in the picture?

A. He said that was the instructions of the people for whom he was working.

Q. What was?

A. Not to allow the settlers to be in the picture.

Q. Did you ask permission to be in the picture?

A. I did.

Q. And when he refused, where did you go?

A. In the house.

Q. Now, do you know why the photographer in each instance took these photographs so that they showed no clearings?

A. I don't know why. They probably had an object.

Q. Could they have taken the picture so as to have

shown the clearings?

A. Yes.

Q. At the same time as the cabin?

A. Yes, they could.

Q. As far as you are concerned, was the camera set at a point where it would show the clearing or where it would not?

A. Where it would not. They went up and down by my cabin several times before selecting the location for their camera.

Q. I will ask you if the location that they selected was not the one which would show the least clearing and the most timber?

A. Yes, sir.

Q. Now, how about these photographs here of E. L. McLafferty? There seems to be a clearing outside. Is that correct?

A. That is a burn.

Q. But there is no timber there?

A. No timber.

Q. And how with reference to this photograph of George E. McLafferty's cabin? Is that true there? Is that why that appears bare beyond there? Is there a burn, or has the timber been removed?

A. Allow me to look at that. No, that is looking over the brow of a hill. That is looking east over the

brow of a hill toward the Columbia River.

Q. So that there is timber beyond there, but it is on a lower plane?

A. Well, I think there is more or less of a burn down in there, too.

Q. Do these photographs fairly represent the roughness of the country in there?

A. Yes, sir, especially that one of mine, I was building a porch there at that time, at the time that picture was taken. I was building a porch, and it shows the stuff scattered about there.

Q. Now, has this debris that appears in the photograph there been cleared up?

A. No, this wood I had cut from a log. These blocks there of wood, and this shows the starting of a porch that I built. The eaves of my house were too low to start a porch roof there, and swing it out, so I set my posts in front, and then ran my porch roof from the post away back to the ridge of my cabin. So it makes a double roof on the south side, and makes a porch there in front about ten feet high in the front. Then since that I have built on another portion here, which makes a nice little bedroom about 10 feet square, and a woodshed.

Q. Then does this photograph represent your present improvements, or simply the improvements as they were on October 4, 1908?

A. Simply as they were the first fall after I went there.

Q. How about this debris here, is that still there?

A. No, that has all been cleared up, and I have raised corn and tomatoes there. I have strawberries on the other side, to the right.

Q. When you say to the right, you mean south of the cabin?

A. Well, I speak now of the tract that runs right down here where you go down here from the cabin, from the porch. On the right of that I have strawberries. On the left, well, I have strawberries too on the left here, but in the foreground I had corn and tomatoes and beans last year, and potatoes.

RE-CROSS EXAMINATION.

Q. How much did I understand you, Mr. McLafferty, to say you had cleared on the land you claim?

A. How?

Q. How much do you have cleared on the land you claim?

A. I have about an acre under cultivation.

Q. So that your corn, your beans and your potatoes, and your strawberries, and all that stuff is all on this one acre?

A. Yes, sir.

Q. It is under fence, I suppose?

A. No, not under fence.

Q. Oh, it is outside?

A. Fencing is not necessary.

REDIRECT EXAMINATION.

Q. You mean there are no cattle roaming in there?

A. No.

Whereupon F. G. McWILLIAMS, a witness called on behalf of complainant, being duly sworn, testified, that he is fifty-nine years old, resides at Ashland, Jackson County, Oregon, and has lived in that county and in Oregon fifteen years. Before coming to this state, he lived at Houston, Texas. His business in Jackson county is real estate and loans, and some mining—interested in some mines. He was raised on a farm until he was twenty-one years old and farmed, he was on his father's farm in southern Wisconsin until he was twenty-one years old. He has not farmed any since himself, but has dealt in farm lands in Jackson county. He knows the farms all over the Rogue River valley and Sam's valley, orchards and farms both, and ranches up in the hills, and is pretty well acquainted all over southern Jackson county, and part of Josephine county in a general way. They produce in Jackson county pretty nearly everything but oranges and lemons. They produce potatoes, wheat, corn, oats, rye, fruit of all kinds; they produce corn, and hay of all kinds, timothy, clover and alfalfa. He is interested with a company in Jackson county that is called the Ashland Commercial Orchard Company, which owns four hundred and sixty acres on Emigrant Creek, about six miles east of Ash-

land, in township 39 south, range 2 east,—it is an old donation land claim. He does not know that he can give the sections. Referring to “Defendants’ Exhibit 259,” he is acquainted with the territory in township 39, ranges 2 and 3 east, township 38, ranges 2 and 3 east, and is better acquainted with township 38, range 2 east. He has sold lands there and has shown lands all through it, has gone through it with a team and has shown different tracts of land there. One will notice the Willamette Meridian running through there. He is acquainted in township 39 south, also 38-2 east, quite well acquainted, because they have this body of land right in there. He owns eighty acres in section 16, township 38, range 2 east, he owns half of the southeast quarter, and then their Company owns four hundred and sixty acres in 38 south, range 2 east. Emigrant Creek runs along there. A mile south of section 16 is where they own this big tract of land, the four hundred and sixty acres that is in cultivation, that is in township 38 south, range 2 east. He is acquainted with those townships in a general way, referring to townships 38 and 39 south, range 2 east. He is acquainted with township 38-3 east, in the Dead Indian country, and has driven through there. He is only acquainted in a general way, by driving through the country there, noticing the lands. He is acquainted right around Lilyglen, which is a postoffice. This is a level country over in township 38 south, range 3 east, no mountains there, regular plateau for miles. He notices these green markings, which indicate the unsold lands of the railroad company. He is acquainted with the area

in township 38 south, range 3 east—only knows in a general way by driving through there. He would not know which was railroad land from the other lands. But in township 38 south, range 2 east, he knows of several sections of land there but does not know the numbers. In township 38 south, range 2 east, there is a lot of railroad land and a lot of homesteads. He knows that better because he has driven up there and sold lands in there and showed lands, sold ranches in there, and he has driven there several times. He would go up there to show lands for sale. He never went up there for any other purpose. He went up to show the Cove ranch a couple of times. Another time he went up to sell a piece of land—show the land. It was originally a homestead. When he went through township 38 south, range 3 east, he was driving to Crater Lake, and camped over there on Little Butte Creek, and noticed the land. He does not know that he is acquainted with any definite section of railroad land, only that it was pointed out to him that it was adjoining several of those homesteads in township 38 south, range 3 east, that was railroad land. He would not know the numbers of them. This land was adjoining different homesteads, and they were pointed out to him as being railroad lands. In township 38 south, range 3 east, he knows that the land is generally a nice level country. He was surprised after he got over that range the first time he went over there that it was such level land over along there. The road was quite level and the country was level for a good many miles. He would say that in his opinion 50 or 60 per cent of that land in town-

ship 38 south, range 3 east, could be rendered suitable for cultivation. He would think that the land in township 38, range 2 east, would run 50 per cent that could be rendered suitable for cultivation. That is a nice township of land after one gets up over the steep mountain. In getting out, it is a pretty steep hill until one gets up over the steep mountain, and after one gets up to it, it is a kind of plateau, level land up there, just gently sloping, it is not rough and rugged. There are people living all over that community, all over township 38 south, range 2 east, there are homesteaders, making their homes and living right there, opening up farms. The only right good timber lands that he noticed there would be on the Cove Range. They acquired that a good many years ago. They claim nine million feet on that and they own eighteen hundred acres, but that is one end of the ranch, of course. The rest is open land, three hundred acres open land, seeded to timothy and clover, fine ranch. He would not say where that is located, only it is on the east side of township 38 south, range 2 east, he could not give the sections. Some parties from Washington were talking about buying it. He did not pay any attention to the legal subdivisions. He thought that it was purchased from the railroad company, about twenty-five years ago, and it is on Cove Creek, that is one of the best ranches there is and contains eighteen hundred acres. He does not know whether there are any railroad lands that have been deeded or under contract in that amount in this township, that is what they claim to own there. The yellow field there shows the

lands that have been lost to the grant by prior settlement, either under the donation law or homestead law. Mr. Silsby of Ashland owns the ranch and claims eighteen hundred acres. He has a very fine house on it, and barns and blacksmith shops. He is well acquainted in township 39 south, range 1 west. That is a good deal more rolling and rough than the land he has been speaking about. He does not think there would be over 25 per cent of that land in that township that could be rendered suitable to cultivation. It is not timbered, it has no good timber on it at all, it is just brush and scattering large trees. And there are mines up in there, a lot of the timber that was fit for mining purposes has been cut out. The Ashland mine cut a whole lot of the timber. There is no big timber there that he remembers. The only other township he is acquainted with is township 37 south, range 3 west, that is on Jackson Creek, up from Jacksonville. There is quite a lot of railroad land in township 37 south, range 3 west. That country is pretty rolling, although there is some land that would lay pretty good there. It is a mining country in there, several mines in there. He would think that it would average about one-third that could be cultivated. There was some timber over in the north part of the township that was sold to Council Bluffs people for a logging company, and that is the only good timber that was on it. This would be south of Gold Hill, on Jackson Creek. He is not acquainted with any of the other lands in there. That is about all that he is acquainted with. The eighty acres of which he spoke is

located in Sam's Valley, and was originally a homestead, and he has owned that about three years. That land in its native state lays pretty good. There is a lot of timber on it. It would not be good logging timber, but there is a lot of laurel and oak, mostly laurel and oak, some pine. No part of it is under cultivation. It could be nearly all cultivated, it could all be cultivated, he thinks. That was part of a homestead, he cannot remember, but he thinks it was about eleven years ago, as near as he can remember, that was taken up, entered from the Government. They can produce anything on these lands with which he is acquainted, that could be produced in that country, grains and grass, timothy and clover. He does not think any of the lands with which he is acquainted are too high to produce fruits. Fruits are raised in that general community. Fruit has been raised up on the Cove ranch—they raise fruit there. That is in township 38 south, range 2 east, and he thinks they call the altitude about 3800 feet. There are settlers all through that territory. All the homestead land is taken, and lands adjacent, adjoining the railroad lands, are farmed and used for farming purposes.

Q. Now, what is your opinion, Mr. McWilliams, as to whether these railroad lands, if divided in 160 acre tracts, would be suitable for settlement purposes; that is, similar to a homestead, a man to go on there for the purpose of establishing a home and making a living there in the farming industry?

A. You mean the percentage?

Q. Yes, I mean the percentage of the 160 acre tracts that would be suitable for that.

A. Of all the lands we have been speaking about?

Q. Yes.

A. On an average of all of it, well, taking the land that I know west of Ashland and west of Jacksonville, and that east of Ashland, I suppose they would average about 33 1/3 per cent.

Q. Well, now, do you mean 33 1/3 per cent of the land could be cultivated?

A. Yes.

Q. Well, I mean what number of the quarter sections in 160 acre tracts would be suitable for settlement purposes? Not how much of it could be cultivated.

A. Oh, I see. Well, I think three-fourths of them would make homes.

Q. Now, in your opinion, Mr. McWilliams, what has been the effect of the Railroad Company's withdrawal of these lands from the market, their failure to comply with the conditions of the grant and sell the lands to actual settlers in tracts of 160 acres, the effect upon the community there, that you are acquainted with?

A. Well, I think it is very detrimental to the growth of the country. We would have many more people there if they had sold the land in 160 acres—I think easy twice as many in the towns and in the country.

Whereupon, upon cross examination, witness testified, that he had only been there about fifteen years. He knows that that land was on the market from about 1880 up to about 1905, about twenty-five years in Jackson county, and that only a small part of it has been bought, excepting that he thinks they took the land off the market around Ashland in 1901—at least he was told they did. He got that from the railroad agent or local agent at Ashland, P. B. Whitney, who was agent at that time in 1901. The reason for that was they were boring for oil, and he said the company had taken its land all off, it would not sell any of it after they got down about 1500 feet. There was a little oil excitement east of Ashland and the people thought they were going to get oil, and the railroad he thought, according to what Whitney said, withdrew a certain territory there from sale. He does not mean that they withdrew all the lands around Ashland. It was on the east side of Ashland where they were boring for oil. There was a coal find out there somewhere, and they thought they had struck coal. The railroad went in there and with its expert, Professor Dumble, tried to find coal, and found it. The people ran out of funds at Ashland, he was interested in that himself, but they never developed a coal mine there. There are coal croppings in several places throughout the country, from the Rogue River Valley to the California line. They never have found any coal that he knows of, in quantities sufficient to mine. They struck a little gas one time in western Oregon. The country around Ashland, as he under-

stands, has been settled for fifty years, and he heard that a good deal of that cleared land was taken under the Donation Land Law of September 27, 1850, and he knows in a general way that was how it was taken. The Orchard Company in which he is interested, east of Ashland five or six miles, is called the Ashland Commercial Orchard Company, and it has four hundred and thirty-six acres, and is on the donation land claim of Henry Chapman, taken in 1853. It was clear land, they have only a hundred and fifty acres in cultivation, it was never timbered land, but always kind of a prairie. He understands that the Rogue River Valley, the land that is now in cultivation in the Valley, was clear, all clear land in the beginning. But that was nearly all taken up under the Donation Land Law. This little piece of land that he speaks of in Sam's Valley, this eighty acres he bought, he bought it the year of the Seattle Fair, three years ago, and paid five dollars an acre for it. Sam's Valley is north of Gold Hill. This eighty acres of his, is about two miles right west of Sam's Valley. The first section in which Sam's Valley is situated is white, as shown on this map, and the second section west of that in Sam's Valley is yellow, and that shows that that was taken under some law prior to the time the company's grant attached, and that it was lost to the company, if it was in a railroad section. He thinks that his place is two miles west of Sam's Valley, but he may be mistaken. The present ownership map of Jackson county shows the name of Charles Coppock on this land that he bought, but he cannot remember the

section that it is in. It is wild land, joining the Fitzgerald ranch, which is an old settled place, but he cannot say whether the Fitzgerald ranch is a donation land claim. Part of this eighty acres that he owns is in the foothills. Ashland's water system originates southwest of Ashland. Ashland gets its water supply fourteen miles at the top of the butte. The Reserve comes down within three miles of the city. This is known as the Ashland Reserve and contains 16,000 acres, they claim. The Reserve was for the purpose of keeping the water pure for the city. It has timber also. The country within two miles west of Ashland is probably a thousand feet higher than it is in Ashland. It is not very abrupt, not very rough, and not very broken—it is not nearly as broken as it is in some places. It is kind of a smooth mountain, lots of soil on the mountain. There is a wagon road up to the Ashland Mine, and one up to a man by the name of Mahan who lived there for several years. The Ashland Mine is three miles west of Ashland. That country up in there west of Ashland is not cultivated to amount to anything, there is no good saw timber on it either. It has been mined, and some of the big timber has been used for mining and for wood, and the rest of it is rock and chaparral and manzanita, and scrubby oak—stuff of that kind. The surface is not so very rocky, in spots there is rock. He thinks not over one-third of that could be cultivated even if it was cleared. That land is nearly all owned by Mr. Billings and Mr. Anderson, who bought that in an early day, and have owned it for years, he thinks. Billings lives

in the edge of Ashland, and he thinks he has a section—nearly a section—around there, which he pastures and upon which he cuts fire wood. He sells plenty of cord-wood at six dollars a cord and delivers wood to Ashland, and that is his only revenue outside of pasture. West of Jacksonville is a mining country. The Opp mine has a 20-stamp mill out there, just two miles from the post-office at Jacksonville. There is a good deal of that railroad land out west of Ashland and in the township south of Gold Hill, referred to in his testimony, which is covered with small stuff on it, with manzanita, chaparral, and greasewood and stuff of that kind.

Q. Don't you know, Mr. McWilliams, that there is about 100,000 acres of this railroad land grant in Jackson County that you could not sell today to anybody, excepting for prospective mines, mining prospects, for a dollar an acre, scattered over the grant, all over it, on account of the rock and chapparral and stuff of that kind—no timber on it of consequence?

A. No, I think there aint an acre there I couldn't sell for \$2.50 an acre.

Q. That is your judgment.

A. That is what I would think.

Q. Well, if Mr. — I can't think of his name—in 1896 General Reames lived at Jacksonville. Did you know him?

A. Yes, sir.

Q. An old timer there?

A. Yes, sir.

Q. Now dead. And Mr. Beekman—C. C. Beekman?

A. Yes.

Q. Who lived there for 40 years, testified that there was over 100,000 acres of that land that was not worth twenty-five cents an acre. You would think that they were mistaken, would you?

A. Mr. Beekman is a kind of a pessimist, you know.

Q. Well, isn't there a lot of that land that you really couldn't do anything with, excepting probably having a large area of it you might try to pasture a little of it?

A. Well, the land that I am acquainted with—

Q. Well, I am not speaking now about what you are specially acquainted with.

A. Well, I couldn't speak to what I don't know.

Q. Haven't you been over a lot of this railroad land that you wouldn't consider of any particular value?

A. No, sir, I have not seen any but what I would consider worth \$2.50 an acre or more.

Q. Well, what is the best of it worth that you have seen?

A. You don't mean for timber?

Q. Well, for anything.

A. Well, I aint much acquainted with the timber-

land. I would say it was worth from \$10 to \$15 an acre, a great deal of it.

Q. The timber quarters you would not know what they were worth for timber?

A. No, I aint acquainted with the timber business at all.

Q. You don't handle timber at all?

A. No, sir.

Whereupon witness testified, that there is a great deal of good timber in Jackson county. The best section of timber is in Jenny Creek, he has always understood that was the best. He only knows by hearing people talk about it what is reputed to be the amount of timber on a good quarter section. He understands that a timber quarter to be valuable for timber, that would sell on the market, would have to cruise about three million feet to be called merchantable timber, and according to his information a good many quarters in that county will cruise that and more. He is in the real estate and loan business. He applied to purchase some of this land under the Act of April 10, 1869. He applied for the southwest quarter of the northeast quarter of section 1, township 39 south, range 1 west. It had a prospect on it, he spent quite a little money on it. The railroad company sold him that land. That was fourteen years ago, and he got it for two dollars and a half an acre. He bought that under an arrangement that was then in force where the company sold any land that was considered mineral at a flat rate of two dollars and a half

an acre, on a quit-claim deed.

Q. And that was the custom that obtained in Jackson County and Josephine County on the part of the Company for years?

A. 14 years ago, yes, sir, they sold it. I wrote to Mr. Andrews. Mr. Britt came up there and found me mining on the land, and he says—I was acquainted with him personally—he says, “Mr. McWilliams, you are mining on my land.” And I says, “This is not your land.” He says, “It is railroad land. I am agent for the Railroad Company.” “Well,” I said, “I will show you that that is mineral land, and you can’t hold it under your grant.” And I got a pan of dirt and panned it, and got a string of gold about that long. I says, “I am going to try to hold this claim. I have a brother who is a lawyer. It wont cost me very much.” And he says, “Mr. McWilliams, I will tell you. You can buy that for \$100. It is cheaper than to contest.” He says, “You will have to apply to George H. Andrews of Portland.” So I did, and got that land.

Q. In other words, the company, where there was mineral on the land, and it was possible that there was mineral in it, and it had mineral prospects, the Company had in force a rule under which they could buy this so-called mineral land at \$2.50 an acre, at a flat price, under what we call a quit-claim deed?

A. Yes, but they did away with that shortly afterwards.

Q. I know, but that was obtaining at the time you

bought yours?

A. Yes, I tried to buy the other forty.

Q. Many people thought that the company had no right to these lands in which there was any evidences of mineral found, though they had a patent to it?

A. Yes.

Q. That was the advice which you had from your brother as a lawyer?

A. Yes, sir.

Q. And that was a question that had been litigated some in the courts down there before Judge Hanna?

A. Yes, sir.

Q. In Josephine County particularly there were several suits of that kind in which the Company won out? That is right, isn't it?

A. Well, I don't remember about that.

Q. The courts held that the patents were conclusive in the absence of fraud?

A. Yes, sir.

Q. But you paid this \$2.50 an acre for this piece of land as mineral?

A. Yes, sir.

Q. Did you develop it?

A. After that I ran about 100 foot more tunnel.

Q. And did you find any—did you make it a paying mine?

A. No, sir, I quit.

Q. Well, why did you quit?

A. Well, my money ran out.

Q. Well, now, isn't that the experience of a good many men who went to mining down there in that country?

A. Well, that their money run out, yes.

Q. They could not develop it, or else it did not appear in paying quantities, sufficient to justify further expenditure?

A. Well, I still think it is a good prospect, only I got a better prospect back of Jacksonville, and paid \$1,000 for it. We have a ten-foot hole, and we have developed that and took out \$18,000 out of that.

Q. What mine is that?

A. That is the Gold Standard, we call it, adjoining the Opp Mine.

Q. Is that on railroad land?

A. Yes, sir.

Q. How did you get the title to that?

A. Well, we got it through Mr. Tom Reames. He had bought it from the Railroad Company, and he deeded to us.

Q. I see. So the title was out of the Railroad Company and in your company?

A. Yes, sir, in Mr. Reames.

Q. There is a good deal of mineral land over Jack-

son County, isn't there, both placer and quartz?

A. Yes, sir.

Q. A year or two ago there was a discovery of a pocket of some \$23,000 or \$24,00 dug out, just picked up on the surface of the earth down there, wasn't there?

A. Well, I have heard that, at Gold Hill, yes. Long before my time, though.

Q. But those pockets are scattered all over in Josephine and Jackson Counties?

A. Well, that is the characteristic of all mining countries.

Q. The result was in 1905 and 1906 there was a good deal of activity in mining and locating men on mineral prospects, wasn't there?

A. Well, there wasn't any locating that I know of. People located themselves. They went out and found something.

Q. What I mean is, there were people that were in all these towns, Grants Pass, Medford and Ashland?

A. Yes, sir.

Q. Prospecting and getting out on these different lands?

A. Yes, sir.

Q. Trying to find mineral lands, and trying to locate on them?

A. About 12 years ago there was lots of them, yes.

Q. And it was very active up to about 1906, and 1907, when the Railroad Company, as you say, withdrew the lands from sale?

A. Yes, sir.

Q. And then that created a good deal of agitation?

A. Yes, sir.

Q. And discussion as to whether or not the company could not be compelled to sell these lands?

A. Yes, sir.

Q. Then later, as timber became an item, that added to it, didn't it?

A. Well, I think it did.

RE-DIRECT EXAMINATION.

Q. Mr. McWilliams, you spoke of some other timber tract that you tried to buy there, or mineral tract that you tried to buy of the Railroad Company, other than the one that you did buy?

A. Yes, another 40 acres. I had spent \$500 on that, too.

Q. Well, what was the history of that?

A. Well, I developed that, spent \$500 on it, and then I thought if I could buy it I would save working the assessments every year, and I made application to buy it about 1905, I guess, and the company would not sell it. They said that they were not going to put their land on the market for awhile on account of the records

being burned in the San Francisco fire. I guess that was later than 1905, because that was after the earthquake, the next year after the earthquake.

The records had been burned, they said, and they had to re-list the lands, and have them passed.

Q. Do you know anything about the practice of the Railroad Company when contests were filed against the mineral land, or by the mineral man against the Railroad Company in the Land Office, prior to the issuance of patent, claiming that the land was mineral land, and therefore exempt from the grant, excepted from the grant, of getting a mineral man to dismiss his contest, and permit them to get patent, upon the agreement that they would sell the land to him at \$2.50 an acre, representing that if he had to obtain it from the Government, he would have to pay \$5.00 an acre?

A. Well, it would be just hearsay with me. I have heard that that was the case.

Whereupon H. S. PALMERLEE, called as a witness on behalf of complainant, being duly sworn testified that he is thirty-six years old, resides at Swastika, Oregon, on his homestead a few miles from Swastika, which is a little postoffice established by themselves, in Klamath County, Oregon. When his homestead is surveyed it will be the southwest quarter of section 36, township 38 south, range 5 east. He has lived on his homestead about seven years, which was unsurveyed land until about a year ago and the plats have not yet been filed and so far as the records are concerned would

still be classed as unsurveyed land. He has never perfected his homestead filing on the land. It was placed in the forest reserve about a year after he settled on the land. The character of the land through there where his homestead is situated is a large plateau covering several miles in extent and the soil is rather of a clay, sandy clay loam he would call it, and generally speaking it is timber land. His homestead is chiefly valuable for grass and grain and roots and some vegetables and he raises on it rye, wheat, oats—vetch and timothy do particularly well. He raises cabbage, kale and roots, such as carrots, onions and beets. The elevation is too high to make fruit a success, and is about 5300 feet. He has about five acres cleared on his homestead and 150 acres under good substantial stock fence. He has a good substantial house, well built, ceiled and papered, workshop, woodshed, barn and hay shed and fences inside his main pasture enclosing buildings and clearings upon his homestead. There are other settlers up in that community. He would say that right in that locality a very large percentage, he would say 80 per cent of the land could be cultivated and has soil that would be productive and lays in such a position that it could be cultivated when cleared. His homestead is in township 36 south, range 5 east in section 6. The reserve takes in part of section 3, all of sections 4, 5, 6 and 7, township 38 and has been extended since they settled there in 1906. He would judge from "Defendants' Exhibit 259" that his homestead is within the limits of this grant. He knows from his own knowledge that

railroad land adjoins him just across the county line in section 1, township 38 south, range 4 east and the section south of him, section 7, is considered a railroad section, which was unsurveyed until a year ago. He is acquainted with practically all the unsold lands, referring to "Defendants' Exhibit 259" in the north part of township 38, 5 east and about two-thirds of township 38, range 6 east and in 4 east practically all of 38 south, range 5 east. This land lies very level as a general thing. Of course there are ridges and hills through it but as a general thing that township lays very nice and he thinks eighty per cent of these lands in there could be rendered suitable for cultivation after it is cleared. There is a variety of timber on these lands; the white fir predominates there. There is also red fir and yellow pine and a very little white pine which makes up the balance. He has been through townships 40 and 41 south, range 2, 3, 4 and 5 east to quite an extent and has been all through those townships sufficiently to acquaint him with the general character of the lands therein, and in his opinion twenty-five per cent of township 40 south, ranges 2 and 3 east could be rendered suitable for cultivation. Then over in 40 south, 4 and 5 east there is a much larger percentage; that takes it down into a more level country which could be tilled a great deal easier than it could in the other portion. The other portion lies a good deal of it up in the Siskiyou mountains and some of it is quite hilly and rocky. He would say, to be conservative, that forty per cent of the last named townships could be cultivated, referring

to 40 south, ranges 4 and 5 east, and these percentages, as to the entire area that he has covered in his testimony, if the land were divided into 160 acre tracts would continue generally as to land that could be tilled. There are settlements and farms which have been there for some time in the same general communities as these lands about which he has testified. There is one in particular that he thinks is located in township 40 south, range 3 east, where the people have been there forty years, one family and in that same township there are several others that he could mention who have been in there from four to seven years from what they have told him, the only way of knowing, and from personal acquaintances, and while the land that they are located on in this particular locality is the one that he says is twenty-five per cent tillable, he would think they have small patches cleared of 10 to 15 acres and good comfortable homes and the balance is used for grazing and he would say that the grazing land all in through this rough part of the country raises very luxuriant grass, and the wild pea vine grows there, which is considered one of the very best stock feeds that they have in the mountain ranges. These settlers keep stock, goats, cattle, horses, hogs, in various numbers. He had some difficulty in obtaining his filing on his homestead. One reason was the unfriendliness of the Forest Service in holding back their applications and putting in various false reports in regard to them and their first application was thrown down. The second application for survey was lost in the Medford office and hindered for about six months;

then the surveyor's notes were lost in the Portland office for three or four mouths and finally reached Washington and they are there now, he supposes, they have not heard from them for a long time, and they hope they are there. This has had an effect upon the improvements of his homestead in this way. After they had been there about five years they got so little encouragement from the Government as to their doing anything that they ceased to do very much in the way of improving. They would like to know something definite before they would do very much more. They had spent a good deal of time and money in making their improvements and it is his intention to make a home of his homestead and cultivate the soil and use it for stock raising.

Whereupon, on cross examination, witness testified that he could not say positively as to how much timber he has on his homestead. The majority of the timber on his homestead is a white fir, which is not considered of very much value and he has not had any experience in estimating the amount of timber on the land and therefore his opinion would not be very valuable on that line. He would simply guess that there might be two million feet of good timber on his homestead. He has not cruised it and is not a timber cruiser. His business is that of farming. He was educated in Minnesota, came to Oregon seven years ago; was formerly a farmer; was raised on a farm and with the exception of about eight years that has been his work. He has never been in the Government service and has been in the grocery business and dry goods business in southern Minnesota.

He came to this section of the country where he located, to get a homestead about seven years ago. About that time there were a great many inquiries for timber and when he came out here he had in mind that he would get a good timber quarter, this quarter, his homestead, was shown to him but not as a timber quarter. When he came out from Minnesota he did take a timber quarter under the Timber and Stone Act in section 2, township 38, range 5 east, about three miles east of his homestead. He has been in the stock business to a very little extent while he has been on this homestead. It is a good stock country around there. He has never heard, and could not tell the number of acres in its native state on this out range that are estimated to be necessary to support one head of cattle. The ranchers there, or homestead entrymen, run stock and pasture them out in the common, in the Forest Reserve, and he thinks they pay for that privilege in the Forest Reserves forty or sixty cents a head for the season. Stock raising is the chief industry that these people have and the cattle all run at large over railroad lands too. The Forest Service for some reason or other has been antagonistic to all settlers locating in that part of the country. They do not know what the reason is but nevertheless it has been true that so far as they have been able to learn their reports upon settlers have all been other than favorable. It is not entirely because the Forest Service have reported that these lands were chiefly valuable for timber and were being taken for timber and not for homesteads. There is lots of land in through that reserve that is devoid of

timber and should an applicant wish to get one of these pieces of land, the report made by the Forest Service would be that if planted to timber it would grow timber, or that it was reserved for Forest Rangers Stations and it seems to be the method of the Forest Service to retain these lands as a timber reserve, that is lands that are either actually timbered at the present time or for growing timber in the future.

Whereupon witness testified:

Q. Do you know that Mr. Graves is of the opinion that nearly all of the lands within the forest reserves that are sought under the guise of actual settlers are really desired for timber? Don't you know that that is his published opinion?

A. Well, judging from the method of procedure of the forest rangers through that country, I would think that they do.

Whereupon witness testified that fruits do not successfully grow on these lands on account of their elevation. They are subject to frosts there during the summer months. George W. Jones, the postmaster at Swastika, the nearest postoffice, is a stock man and has a large ranch of 320 acres. Swastika is just a postoffice. For their nearest trading point they go to either Ashland or Klamath Falls. The distance is about the same. Ashland is about thirty miles distant. He is directly on what is known as the Dead Indian Road, the old established road. A man by the name of Whitcomb located him on this land. Whitcomb's principal headquarters

had been at Klamath Falls. He would call the lands which he has described and over which he has been in these various townships a timbered country, but would not say that the chief value of these unsold railroad lands was timber. There is now no demand for timber there at all and there has not been an active demand for timber. He has not known of a single sale made in that locality recently or at all. He is speaking of the locality of his homestead and there has not been very much of a demand for past years for timber lands in these various townships both east and west. He understands that Hopkins has about forty thousand acres in there on the Jenny Creek belt, about twenty-five miles southeast from him. He has heard cruisers talk about two million to three million feet as being a good timber quarter in that country. The man that had been forty years in there, of which he spoke in particular, raises all kinds of produce, fruits and grain, butter and eggs, and everything of that kind and he thinks his place is in township 40 south, range 2 or 3 east, about fifteen miles from Ashland he thinks. He homesteaded his place before the railroad acquired this grant. His name is J. M. Tyler and his postoffice is Soda Springs on the Green Spring Mountain road. He sells to the markets at Ashland and raises produce in the way of butter and eggs and he raises pork for that market and sells that in Ashland and is extensively engaged in that. He makes a little more than a good living. He is not in the hog or egg business as such, but is in the general farming business. His chief income would be from stock, butter and eggs, and

he has been there he thinks about forty years. The other settlers that have come in there later are Mr. Davis who lived back about two or three miles still further. He is off to one side of the main road and back in among the hills and has a homestead which has timber on it and it is just a fair timber quarter he would think. He has, he presumes, about ten to twenty acres cleared and has been there about seven or eight years, and is about two or three miles away from this man who has been there forty years. Another is J. D. Williams, whose homestead is about two miles still further back. He does not think he has a very extra good timber claim and thinks his is principally open land. He could not say how much he has cleared and under cultivation, but thinks he has about twenty-five acres and the balance he uses for pasture. The lands of this man are mostly fenced, some with wire fence and some with rails. They all have stock on the out range, cattle and hogs, that is what they get their living from principally, the stock business. They raise very nice potatoes and strawberries in that locality. Whenever they have more than they need for their own use, they haul it to Ashland, which is their nearest market. There is no stage travel in there, they are off the stage road to one side. The land which has timber on it could not be tilled until the timber is removed.

Whereupon JAMES F. WILSON, called as a witness on behalf of complainant being duly sworn testified that he is fifty-seven years old, resides in Linn County, Oregon, near Crawfordsville and has lived in

that country since 1881. He has followed principally logging but he is farming now. His farm is located in section 20, township 14 south, range 1 west and he owns only one hundred and seven acres. He does not remember how long he has owned it, but he never moved on to it until five years ago, although he bought it a good many years ago. It was a donation land claim. There are sixty acres under cultivation that he farms and he raises pretty nearly everything. He does not raise grain to thresh but raises grain hay, puts pretty nearly everything into hay that he raises. He has a young orchard on the place but none bearing. It is a pretty fair fruit country. He raises pretty much all kinds of vegetables. He purchased eighty acres of land from the Oregon and California Railroad Company about 1885, or 1886, and paid \$3.50 an acre for it, it was good farm land, and he bought it for raising stock. He had it about all in farming land and pasture excepting ten acres, it was timber and densely covered with what he would call pole timber. When he speaks of pole timber he means from a little bush up to say ten inches. There was quite a lot of big timber rotten at the top, it was not counted valuable at all at that time. The timber had no value at all and he was not interested in timber. When he purchased the land it was solely purchased for agricultural uses, that is what he bought it for. Referring to "Defendants' Exhibit 259" he lives in section 20, township 14 south, range 1 west. Holley and Crawfordsville are in this township. All north of where he lives was taken a good many years ago and has been settled years and

years in old donation claims pretty much all of it. South of him then begins land that has been taken principally since he came into the country. He is acquainted with the general country south of where he lives now and is very well acquainted with all of township 15 south, 1 west over in the Mohawk country where he is. He has been all over and run his cattle all through the lands between the Mohawk and the Calapooia, that is townships 14 and 15. After he gets off of 14 and 15 he does not know the lines. The other he has been to corners and all around that land in townships 14 and 15 south, range 1 west, and he will say for twenty miles east of his old place through there hunting cattle and deer; that is east of Crawfordsville in townships 14 and 15 south, range 1 west, that lies through a low gap in the mountains, it is high on both sides, all nice land pretty much all of it. There is some in the east, a little on the east part of that, that is getting rough. Eliminating two or three sections he would say that half, or in the neighborhood of half of this land, after the timber that is on it has been removed, could be farmed or tilled. There are two of these sections one could hardly find a level enough place "to whip a dog on," section 11 in 15 and section 2 in 14 he did not make his estimate on each one. Referring to section 11, township 15, there is a mountain which rises up right there and covers that section. The section about covers it. It is very fine timber and only about eighty acres of the south side is bare and very rocky and very steep. Section 2 is on the head waters of Brush Creek and is all broke up in gullies before it

comes down to the main creek. That is very rough in there and heavily timbered, about the best timber there is in that country. There are settlers on the even numbered sections in this area with which he is acquainted in township 14 and 15 south 1 west. Township 15 along the river was pretty nearly settled when he came to the country in 1881, that is in the even sections, part of it in the even sections. There were some settlers off the river and there are some beyond, they are farming, some raising grass, stock and hay. The land about Foster and Sweet Home country is bottom land and is sandy land and is a little better land than where these settlers are in townships 14 and 15 south, 1 west. There is quite a bottom on the Santiam, along near Foster, bottoms and sloping land, it runs back up but this is taking him off of townships 15 and 14 and in a country that he never ranged over only to go up the Santiam River. He is acquainted, however, in that locality, has been up the river clear on across the mountains. There are a number of ranchers there in that Sweet Home country in townships 13 and 14 south, back in ranges 1 and 2 east, but he has never ranged through that Sweet Home country only to travel the main road and he is not acquainted with them, that is, some places that he knows were only just on the road, he has been over six or eight times across the mountains there. Fifty per cent of the land in each 160 acre tract in townships 14 and 15 south, 1 west, could be plowed except those two sections, he would say that a man could get very little tillable land on either one of these two sections.

Whereupon on cross examination witness testified that on the north hillsides of these railroad sections it is good timber, facing the north. Those north slopes on these hills and mountains carry the heaviest stand of timber, it seems to be much older than on the south side. The south side is not much bald in that country, it is all a timbered country. It runs from a pole country up to what he calls second growth, that is, generally speaking, among loggers, called second growth, that is trees that will cut say from four to eight hundred feet to the log, sixteen foot log eighteen to twenty inches at the butt. It has a thin bark and thrifty looking timber. Pole timber that he speaks of is six to eight inches and about like telephone poles. He supposes likely that this timber has grown up since it was burned over at one time but he does not know, it does not show it. It does not show that there are any big stumps there anywhere. He paid \$3.50 an acre for this 80 acres in 1885 or 1886, and it is all cleared, in plow land and grass, except about ten acres. There are about thirty acres plowed on the place. He cannot tell just when he sold it. He bought it, he thinks, in 1885 and lived there about twelve years and then he bought another place and he sold that and he thinks he held it about two years longer, which would make about fourteen years, that would be about 1900 when he sold. He got \$10.00 an acre for it. He logged a great deal of the time when he was living on this 80 acres; that is he drove team a great deal of the time for other people, hauled the timber, drove the team. He was principally ranching and logging, but not for him-

self at that time. At the time he was living on this eighty he was ranching and logging and raising stock was his business principally. His stock ran on the range. The settlers away from the river have generally sold out. They had principally timber claims and sold their lands, he thinks, the principal part of them along that river and away from the river, to the Booth-Kelly Lumber Company. He cannot tell the year when they sold but somewhere about the time that the Booth-Kelly Lumber Company went in there, about 1890, some odd years. It would be hard for him to tell the amount of timber that these homesteads that were sold to the Booth-Kelly Lumber Company would run, they had cut off and burned up so much timber there before there was any valuation, before it was worth anything and cleared the land and such like and he thinks really they had cut the best of it. What they had left would lay in such shape that they would go through there and estimate what was left, and it would be a hard job for him to tell how many acres they had, or what it would amount to, but it was of sufficient value for the timber for the Booth-Kelly Lumber Company to buy it. They gave up their settlement and moved away when they sold the land. He would say that some of these people had from five acres up to forty acres in cultivation on their homesteads. Most of these people that sold had lived there for a great many years and had done clearing. They did not sell about as soon as they got their patent, they finally sold out afterwards to the timber people. This 107 acres that he owns in section 20, township 14 south,

range 1 west is something a little above two miles from Crawfordsville principally southeast. It was a donation land claim of Thomas Woodfern and he cannot tell but expects it was settled in 1850. It was an old claim and was about two miles from the Calapooia River and lays on Brush Creek. He has not cruised any of these timber lands over on the Mohawk and through townships 14 and 15. He did not do any cruising except once in awhile when some of his neighbors had logged so much that they would want a cruise before they would have the regular cruiser of the Company to go in, that is they would want him to give them his judgment so as to guide them in dealing with the Companies and that was as far as he ever cruised any timber. That was on some of these homesteads that were sold. He never directly applied to purchase any other railroad land excepting this eighty acres. He never wrote to the Company about it but asked Britt, who stopped at his place a great deal when he was looking over this railroad land cruising it and running it out and getting the estimates of the thing, and there was an eighty that laid adjoining him on the north, the other half of the 160 acres adjoining the 80 he had bought, and he told Britt that he had a notion to buy it and Britt said he could not buy it. This was within the last seven or eight years while Britt was doing this work. It must have been right along in 1890 when Britt told him that he could not buy, that the thing was shut down then until they got done, they were not done cruising, they were not half done when they were at his place. Most of the time they were surveying

right around his place. This 80 acres that he wanted to buy from Britt was pretty well timbered and was flat black land and the timber was not of any value then, but it has since become of some value, but he was not buying it then for that. At that time timber was not worth very much, they would burn it up. That eighty he thought would go something like over 1,500,000 feet. He has not bought any stumpage since he got his land or had anything to do with it since he bought the railroad land. They sold their land instead of selling the stumpage. They sold their land out to these timber people, referring to the Booth-Kelly Lumber Company, who owns most of this along the Mohawk River.

Whereupon WILLIAM COCHRAN, called as a witness on behalf of complainant being duly sworn testified that he is sixty-one years old and resides in Linn County, Oregon, two miles north of Brownsville on a place partly in section 19, township 13 south, range 2 west and section 24, township 13 south, range 3 west and is engaged in farming there and raises most everything that is usually raised on a farm, oats, wheat, barley, etc., fruit and vegetables and has about 125 or 130 acres under cultivation and 800 acres altogether in his farm. He has the farming part of his farm rented at present. He raises stock principally, sheep at present. He raises apples, pears and prunes. The place was his father's donation land claim. There is railroad land in the vicinity of his farm, adjoining him on the east and northeast, consisting of forty acres in two separate tracts. Four-fifths of these two tracts could be tilled and cul-

tivated. In its native state the original character of this country was comparatively open. There was scattering timber at that time on a portion of it. He has cleared and cultivated the portion that was not heavy timber. The land he has not gotten under cultivation there is used for pasture. Referring to "Defendants' Exhibit 259" he is fairly well acquainted with the country at large, five or six miles south and north of the Calapooia and east from Brownsville eighteen or twenty miles and he is acquainted north and south five or six miles each way from Calapooia River which runs in a northwesterly direction and rises in a southeasterly direction. He is fairly well acquainted with all the land that runs along the Calapooia for eighteen or twenty miles east of Brownsville. He has traveled over it quite a good deal on each side of the Calapooia five or six miles. He is fairly well acquainted with the lands south of Crawfordsville, a distance of five or six miles on the Calapooia. He could hardly tell the lands with which he is acquainted by township and range and he has given the best description that he could. He has been over that land, hauling lumber and hunting and in hunting he would go off of the river and through the fields and woods there. Speaking generally as to the lands where the railroad lands are situated but not necessarily referring to the railroad sections alone, taking that whole section, he would say that four-fifths of the lands with which he is acquainted along the river could be rendered suitable for cultivation and the balance could be used for stock range. There are people living in this section

farming and engaged in farming on lands of similar general character. Taking the whole country that is settled altogether he thinks that this average generally, if the country were divided into 160 acre tracts, would hold good as to those tracts.

Whereupon witness testified:

“Q. Mr. Cochran, in your opinion, what has been the effect of the Railroad Company’s refusal to comply, or its failure to comply with the terms of the grant, and sell these lands to actual settlers at \$2.50 an acre, in 160 acre tracts—what effect has that had on the community that you are acquainted with there, if any?

A. I would say that it has retarded the settlement of the country.”

Whereupon, on cross examination, witness testified that his father’s donation was taken in the early fifties, before 1850, he should think. He is now sixty-one years old and was born on the donation land claim.

“Q. Your father was William Cochran?

A. Yes, sir.

Q. And you are a nephew of former State Senator Cochran?

A. Yes.

Q. Uncle Bob, as we called him?

A. Yes, sir.”

He has lived in the vicinity of Brownsville all his life. His father’s donation claim is about two miles

north of Brownsville, which has a population of 900 people. The Calapooia is one of the oldest settled portions of Linn County.

“Q. Now, you are acquainted in a general way with the lands on either side of the Calapooia for four or five miles and for a distance of twenty miles east of Brownsville?

A. Yes, sir.”

That includes the donation claims, and the homesteads and other entries that have been settled along the Calapooia and that are not railroad lands, as well as the railroad lands, and also includes any portions of the railroad land that may have been sold heretofore, within this four or five miles on either side. He thinks most all of that country along the Calapooia there east of Brownsville was taken up under the donation law. These unsold lands that lie within four or five miles of the Calapooia River are in the foothills like, of the Calapooia. Not knowing which are railroad lands he could not say what they are covered with but only just as the country generally is. There is some timber four or five miles away from the Calapooia but not dense, not very large timber. There is some logging timber or saw timber within four or five miles of the Calapooia on the south side in spots. He would say eighteen or twenty miles up the Calapooia, near the Calapooia, there is some saw timber. He has never taken a homestead in this country and never applied to purchase any railroad lands excepting those two forties which have not any valuable

timber but are covered with oak grubs and when cleared one could plow the land, most of it. He does not know what it would cost an acre to grub these oak lands. They used to, twenty or thirty years ago, have Chinamen that they could get to grub the land down in the valley and they paid all the way from \$15.00 to \$30.00 an acre, depending on the stand. The Willamette Valley and around in Linn County was always substantially a prairie country. He guesses Linn county was one of the largest prairie counties in the Willamette Valley and had more prairie than any other county, unless it was Lane. In the four-fifths of the land on either side of the Calapooia within four or five miles that could be put under cultivation, he includes what had been settled, including donation land claims and all that have been taken in the early days.

Whereupon, on re-direct examination witness testified that what he terms prairie land is that which lies down away from the hills and on the level. There is some grub land out on the prairie in patches, but it is mostly on the foothills where the oak grubs and young fir grow. There was not originally in the vicinity of Brownsville considerable of this oak grub and young timber, small growth of timber on nearly all of those lands, it is second growth fir, that is young fir that has grown up in the last fifteen or twenty years, possibly longer and oak grubs that have grown there since he became grown.

Whereupon, on re-cross examination, witness testified that in the Willamette Valley as late as 1860 to 1870, much of the valley land was not broken up, not

plowed, and tall grass where the stock did not run over it, where it was not burned, came up and was in existence all over the valley, and later on, because there were no fires put out by Indians and others, oak grubs and second growth fir sprang up all over the valley in different parts and that is what he referred to about the oak grubs growing out on the valley. There is not much fir that grows out on the prairie but the oak grubs are a growth within the last forty or fifty years and it was formerly prairie. He accounts for that in this, that there were a few scattering large oaks out on the prairie near where those patches of oak grubs came and he supposes that is what seeded the ground, and he thinks they did not grow before because the Indians burned the land off.

Whereupon, on re-direct examination, witness testified that he thinks the Willamette Valley and Cascade Mountain Wagon Road land grant begins at Sweet Home and does not extend up as far as Brownsville. The Willamette Valley was practically all taken up by old donation claims he thinks and was the early settled part of the State. The early settlers took it that way.

Whereupon JOSIAH H. BEEMAN, called as a witness on behalf of complainant, being duly sworn, testified that he lives at Gold Hill, Jackson County, Oregon, and has lived in Oregon twenty years and at Gold Hill all that time. He has been engaged in the development of mines, principally quartz mining since he came to Oregon. He has traveled largely all over Jackson County and to some extent in Josephine Coun-

ty, examining the opportunities for mining. He has traveled over a good deal of district that is not mineral in character in the way of hunting excursions, and for research of the formations. He has lived and was born on a farm. He worked on a farm in the east, in Michigan for three seasons and he has farmed some in a small way in Jackson County and he thinks that in his experience in Jackson County he has become familiar with the general industrial history of that county to which he refers and he has become familiar with the general character of the soil and other conditions that enter into the question of the adaptability of that land to agricultural and horticultural uses, and has made considerable examination together with men whom he believes to be experts in that line, examining the different types of soil, from an agricultural standpoint in Jackson County. He has been active in connection with his local commercial club in the capacity of president of the Gold Hill Commercial Club and a member of the Southern Oregon Development League, and they have an association connected therewith, with the State League. His interest in the industrial life in that community has not been limited to mining. He has been very much interested in the upbuilding of his community and has tried to gain a knowledge as to the adaptability of the soil for various purposes in the different districts. He had a long conference with Mr. Howard Reed who was carrying on experiments on behalf of the Department of Agriculture. Together they went over the district lying east of Medford, known as the desert land, and made a

thorough examination of the work and experiments carried on by the Roguelands Company, and the possibilities of the success of their proposition in the development of that land. He has noticed the development of the higher lands in the last five or six years and the growth of the trees that were set out on the higher lands, other than what would be called Rogue River valley lands, that the lands lately developed show a better growth than the lower or the high priced fruit lands of the valley known as the Rogue River valley. There is generally a greater depth of soil. The lands are air drained, and to a large extent sub-irrigated. By sub-irrigated he means that the water comes from the higher mountains under pressure of some kind and flows and seeps down the incline through the soil—keeps it moist and prevents the sap souring and allows a healthy growth of the bacteria of the plant. He really knows very little about it from a theoretical standpoint and wishes to testify only from practical knowledge and watching the industry from a personal visit and investigation. He considers the hill lands the most valuable in Jackson County for agricultural purposes. He has made observation as to the usefulness of the so-called decomposed granite land. That land is largely the type of soil in Josephine County close to the vicinity of Grants Pass. It is called there by those people, volcanic ash, to him it is known as granite. Those lands are very valuable lands with irrigation. He rather thinks that most of the granite lands require irrigation. He could not testify to many particular tracts of land in the

granite of Josephine County as much as Jackson County with reference to the growing of fruit, grapes and other agricultural and horticultural crops upon those decomposed granite lands without irrigation. There is very little of the granite lands in Jackson County. He does not know of experiments in these granite lands without irrigation. He knows in a general way where the railroad lands are situated in Jackson County which are involved in this case and these railroad lands average about the same as the other hill lands in Jackson County, which he has been describing, as to adaptability as to soil for the uses of which he has been speaking. His testimony upon that subject includes the communities where these railroad lands constitute a part of the lands. He knows of a good many places where they are raising very fine fruits on lands involved in this case now owned by the Railroad Company. He knows of instances where the adjoining lands are used. There are a great many places where the Government land has been taken up by the settler, homes built and made thereon, and while the railroad lands adjoining are lying idle, they are the same character and types of soil.

Whereupon witness testified:

Q. I will ask you whether, in your judgment, speaking of these railroad lands as a whole, 160 acres of them, if open to settlement, would support a settler and his family?

A. Yes, sir. There are a great many 160-acre tracts that I believe would, if the lands as a whole were thrown

open for settlement.

Q. Are you familiar in a general way with the manner in which the railroad company has sold or refused to sell its land in Jackson county?

A. Yes, sir, I have had a large experience in that line.

Q. I will ask you to state whether the policy that has been pursued by the railroad company has promoted or retarded the development of industrial and commercial conditions in Jackson County?

A. It has very decidedly retarded the commercial development in all lines of industry.

Q. Has that effect been restricted to the railroad lands themselves, or has it also extended to the intervening lands?

A. Very largely to the intervening lands in certain districts.

Q. How? Just explain what effect this policy has had, and how it has brought about the result you refer to?

A. Well, where the government lands would lie along established county roads, that is, along the good wagon roads, that land has been taken up and settled upon to a large extent by homeseekers; but in districts where there were no school facilities nor good wagon roads, those districts have been absolutely retarded and unsettled, I think by the main reason that the grant has been taken off the market.

Q. What lands?

A. The railroad lands.

Q. Now, is there any reason why roads could not be established and schools established in those communities if the lands were open for settlement?

A. I know of settlers that have gone upon the railroad lands and have attempted, apparently in very good faith, to make homes, that afterwards they found that they could not sustain themselves for the reason that the neighbors were distant, there were no means of ingress and egress to the property, and that the railroad refused to sell them the land after they had made settlement thereon, and that good lands for agricultural purposes have been taken up as timber claims, and have been sold to timber dealers, which has retarded the development; whereas if the lands were thrown open as is the purpose and intent, as I believe, of the grant—that the country would have been largely settled up, if conditions were different. Did you want me to go on about the mining interests?

Whereupon witness testified that on the very high lands adjacent and tributary to Gold Hill for a radius of eight or ten miles in most all directions, they raise very fine pears. They bear very early, from one to two years earlier than the fruit in the lower Rogue River valley proper, on very high lands he has taken pride in sending grapes and fruit to his friends in Portland and San Francisco. He thinks that fruit and those grapes are superior to the fruits and grapes that grow in the

Rogue River valley proper as to quality and he thinks they can be grown to a greater degree of profit than the lands known as, for instance the Burrell orchard, which is the highest priced land that has been sold to his knowledge in Jackson County. In most instances irrigation on these hill lands is not necessary. He thinks there are a great number of tracts of 160 acres that have from five to 160 acres upon them that would sustain a family and that more than fifty per cent, approximately, of the unsold railroad lands situated in Jackson County and in that part of Josephine County with which he is acquainted in quarter sections, would be fit for settlement and the maintenance of a settler and his family, that is more than fifty per cent of the quarter sections, more than fifty per cent of the quarter sections contain enough of this land to sustain a settler. There are a great number of 160 acres that would support a large number of people. These lands that he speaks of are scattered throughout the county. There is considerable of this railroad land involved in this suit in the vicinity of Gold Hill, a great many acres he believes, that is, in all directions from Gold Hill, within a radius of ten, twelve or fifteen miles. There are considerable desirable railroad lands within that area that are not timber lands to any degree. The lands about which he has been asked to testify here are practically non-timbered lands, nothing but fire wood and brush on them. The timbered section of Jackson County is up in what they call the Evans creek district, the Butte creek district and some in the Siskiyou and he is acquainted with those. He

thinks these lands, after the timber is removed and the lands are cleared would make very fine agricultural land to a large extent. He has been engaged in quartz mining, as he has said, for twenty years. He purchased quartz mines, paying pretty large sums for the mining properties and a great number of them had been situated on odd sections owned by the Railroad Company. He filed protests in 1895 and 1896 against the issue of patent to the railroad company for these lands, and on other tracts the railroad company made application, and he made protest after the application had been made, together with those interested in the development of mines in Jackson County. Hearings were ordered by the Department in proper order, and at the hearing the railroad was represented in a great number of cases, in fact, all the cases, he believes by N. E. Britt and a corps of assistants, he had five generally. All of those witnesses testified to having qualifications as to farming experience. He is testifying now from his personal appearance in the cases and from his personal knowledge of conducting the examinations in these cases. The witnesses produced by the Railroad Company were to the effect that these lands were chiefly valuable for agricultural purposes and in all the cases the lands involved in these particular cases were very high or mountain lands. In section 29, township 35 south, range 3 west, where his stamp mill is situated, the lands are very steep and the railroad witnesses testified that they were very fine agricultural land and he thinks that they were right and that they are good agricultural lands, and also mineral

lands. He had taken out a great many thousands of dollars in gold and silver from the lands now owned by the Railroad Company and withdrawn from sale. The fact that they are withdrawn from sale has retarded to a very large extent the mining industry of Southern Oregon. It is difficult to obtain capital for development of any enterprise until they can show an absolute title to the property, which of course is prevented by the refusal of the Railroad Company to sell the lands. In most of the tracts of land with which he is familiar and where these contests were heard, there is very fine agricultural land. His own land is in section 29, is quite steep, but the soil is very deep. He has been able to raise very fine vegetables, all the vegetables necessary for his camp. He has there grown potatoes and pea vines eight or nine feet high, and they had an abundance of peas on them. They had very large potatoes, some as nice potatoes as he every saw, both as to quality and smoothness, that is true of a good many of the mining camps, placer mines and quartz properties. He would say that there were more than twenty instances of contests of the kind he has described where the testimony was of the character mentioned. These contests commenced in 1896 and ended on October 14, 1912. Mr. Britt made the proposition to him that if he would withdraw his protest and let the Railroad Company obtain patent to the land on their agricultural value it would agree to sell him the lands after it had obtained patent. The company made that proposition to most, or to a great number of the protestants, to his personal knowl-

edge and he knows of instances where it was accepted by the protestants, who did withdraw their mineral protests and allowed patent to issue to the Railroad Company. He, however, refused to enter into any proposition of that kind, as he was sure that the lands were chiefly valuable for mineral, and he carried his cases to their conclusion, which resulted very largely in favor of the Railroad Company and against the miner for the reason that it became generally known that the Railroad Company would sell the lands to settlers; and there are those who believed that the Railroad Company would sell it who are at this time unable to buy the lands that they were interested in. The title of N. E. Britt was, he believes, chief surveyor of the Oregon and California Railroad Company and he had charge of the cruising in that particular Southern Oregon district. Witness took into consideration the question of clearing the land and reducing it to cultivation in determining its usefulness for agricultural and horticultural purposes. It is particularly noticeable as to the value of these lands from a practical standpoint in a trip from Gold Hill south on what is known as the Mountain road to Jacksonville, that land, lies very steep and high above the valley proper, commanding a full view of practically the whole of Rogue River Valley and until a few years ago was regarded as of no value, but in a great many instances it has been demonstrated beyond a question of doubt that those lands are the best fruit lands in Jackson County and it has been shown that the higher trees have the greater growth, in speaking of trees in the

same field planted on a steep hillside, from the highest point down to the black alluvial soil in the valley, that the higher most tree would comparatively be four or five times larger than the tree on the lower line down, or what would be known as the river, the alluvial black soil showing that the tree had some advantage, or a large advantage over the lower trees, which is accounted for by being air drained and possibly sub-irrigated. In mining he has known sub-irrigation to be over 3300 feet in elevation, at the top of Jump-off Joe, they mined on the very top of the mountain there, yet at the depth of sixty feet it was necessary for them to furnish the miners with gum clothes, gum coats and gum boots. And in the fruit lands some six or seven hundred feet above the elevation of Gold Hill, which would be 1600 or 1700 feet in elevation above sea level.

Whereupon witness testified:

Q. Mr. Beeman, I will ask you, from your knowledge of the general conditions in that country, your observation of the developments of the lands as a whole, whether in your judgment, if these railroad lands had been offered to settlers, they would have been settled upon, improved and developed, and would now sustain settlers and their families, and homes on them.

A. I most assuredly believe that they would be largely settled upon if they had been sold or had not been withdrawn from sale.

Whereupon witness testified, that there is practically no saw timber in the immediate vicinity of Gold Hill

and there is no timber on the land along this mountain road to Jacksonville, referred to by him. He is speaking from traveling over the lands and through across the mountains and going through and over the trails and personal observation and study of the types of soil in the different mineral belts. He believes that he is one of the first men that met Mr. Townsend when he first came to Oregon to investigate this case. He has given the subject of this suit special thought and consideration to a large degree since that time. During the first trip of Mr. Townsend here he went to the southern part of the grant and he took him over some of these lands that he is now referring to and took many other people too. He is quite enthusiastic as to the adaptability of these lands as to their natural resources but he has not intentionally permitted his enthusiasm for the value of these lands for the purposes stated to influence his judgment or testimony. He is positive he has not done so and is sure he has not been over enthusiastic in his work and study of these, and in any testimony that he might give here.

Whereupon, on cross examination, witness testified that he practices before the land department but has not been admitted to the bar of the State or to the Supreme Court of the State. He came to this state from San Francisco where he was in the merchantile business for a number of years. He lived in San Francisco all his life, with the exception of three years when he went to Michigan. He considers that he is a mining man and that that is his business at the present time. He owns

the Lucky Bart mine in sections 29 and 30, township 35 south, range 3 west and the Alice group of mines situated in section 11, township 37 south, 3 west. He is the sole owner, with his wife, of the Lucky Bart property. In the Alice group he has associates. He has some lime locations that he owns himself, two-thirds and an associate one-third, in township 36 south, range 3 west, in section 20, and he has some stock interest in other mining properties. He thinks he has 7,000 shares in the Gray Eagle, or the Oregon Gold Hill Mining Company, which is in section 29. He thinks the par value is \$1.00 a share. He received that as an owner of the claim, but did not have title to the claim, the record title belongs to the Railroad Company, he has a possessory mining title. They have run several hundred feet of tunnel, winzes and shafts on there. At the time that he sold it they had taken out but very little gold, it is a gold mine, it was development work entirely, their ore was all on the dump. That land is patented to the Railroad Company and is part of the land that he lost in these mineral contests. He did not organize this company and he does not know who organized it. There are two claims, practically forty acres located on 1500 feet by 600, which would be 3000 feet by 600. He purchased them from the original locators and they were located under the mineral law and he purchased the claims from the mineral claimants. The mineral claimants protested and won out but in making the segregation they were not awarded the amount of ground that they were entitled to under the decision. The decision was that the seven

claims of the Lucky Bart Mining Company should be cancelled from their application. In making the segregation and survey, the railroad surveyor filed an affidavit that he could not find the claims of record as were testified to in the case, although they were of record. In making the segregation, for instance, they found the claim of Buckskin, which the notice said was 1500 feet, they segregated only 1400 feet and took a patent to a fractional lot known as lot number 2. The Railroad Company made the survey. Witness and associates were awarded only the portion of the claims covered by their location and they got a patent for, he thinks, less than one hundred acres, because it was mineral. He guesses that they are squatters and that that is their only right to possession. They have constructed a stamp mill, built a road at large cost, and extracted a great many thousand tons of ore. The portions of the mine owned by himself and wife that he did not receive title to, he purchased from the Railroad Company at \$2.50 an acre in 1901, being 52 and a fraction acres and the deed was made to him personally and he owned it individually. They had a contest as to section 11 on mining claims that they purchased in township 37, traversed through the entire section 11. They did not get a patent to any of that—the Railroad Company got the patent to it. He won out as to that contest, but was wrong as to the section. The testimony was that they supposed that they were in section 13, the decision was that the lands claimed were more valuable for mineral. The railroad got a patent to the land, however, under some process that he

did not know at the time how it was done. He had a suit in the courts to set aside the patent, which was heard in Jackson County. The decision was not to set aside the patent, he alleged in his complaint that the land was mineral but it came about in a way that the Railroad Company sold its mining land to others. He and his associates did not get any title from the Railroad Company but sued a party who bought from the Railroad Company. In that instance the price, instead of \$2.50 an acre was \$12.00 an acre, but the court held that this party was a trustee for witness and associates. The title of the case was J. H. Beeman and John R. Mitchell against William Mendenhall, the case did not go to the Supreme Court. Witness finally lost the land. Judge Hanna decided that Mendenhall had a right to buy it from the Railroad Company at \$12.50 an acre. Judge Hanna ruled that the patent was subject to attack, but title having left the Railroad Company under the patent he and the litigants fought it out between themselves and he lost. That was the way it was done. He did not appeal to the Supreme Court because he was pretty short of funds at that time. He had purchased forty acres where his tunnels were from the Railroad Company which would be the northeast quarter of the northeast quarter of section 11, where his development work was. He had purchased that in 1901 through his associate Mr. Mitchell. He is assessed in Jackson and Josephine counties for last year something close to \$10,000. It is not all on his mining property. He has some property in Gold Hill that is assessed, some store buildings and a residence.

Most of his assessment is made up of Gold Hill property, practically all of it. He is assessed on this mining property at \$6.00 an acre or 52 and a fraction acres in section 29 and forty acres in section 11, which would be 92 acres at \$6.00 an acre, and also is assessed for the stamp mill and he does not know just what that is assessed at, but about \$1,000 for improvements, something like that. He is assessed on this mining property then for about \$1500.00. He was never at any time in the business of promoting applications and so-called settlements of these lands about the time Mr. Townsend first saw him in 1907. He never in any instance was connected with Mr. Hammersley or anybody else in the business of making application and tendering the \$2.50 an acre on these printed blanks. He absolutely refused to have anything to do with such a proposition. He did not locate Frank Gingrass on some railroad lands, but he did have something to do with it. Gingrass located on a piece of railroad land in section 19, township 33 south, range 3 west and attempted to locate on 160 acres. The place is northeast of Gold Hill about twenty odd miles. Mr. Gingrass was a man who worked for him in the mines and he knows a great deal about the railroad lands and wished to settle upon them and witness assisted him. He gave him the use of animals and a horse and some implements on settlement. This land had considerable saw timber on it, he would judge about from two and a half to three million feet. Gingrass lived there for about a year and left it after the railroad refused to sell it. Gingrass offered \$2.50 an acre under this act and

was refused, he was a single man, and cleared up quite a piece, built a cabin with windows, floors and doors in it, built a corral, dug a well and cleared, he should judge, not over an acre and a half, something like that, and stayed there nearly all the time he was building his house while he was there. Witness did not furnish him money to build it, but only assisted him by furnishing him horses and stock and stuff of that kind. Gingrass pastured stock out there, he did not have any cattle but had some horses, one horse belonging to witness and Mr. Ray had two most of the time there and with that exception witness had nothing to do with locating people on any of this railroad land. He thinks he was interested and heard about twenty mineral contests in all, in a great many instances he was attorney for the mineral claimants. Hammond & Vawter were first engaged for the Railroad Company, in a large number of them W. I. Vawter, who is now manager of the First National Bank of Medford, was one of the firm and one of the leading and responsible lawyers of southern Oregon. A. S. Hammond was at Medford at that time, the firm was Vawter, Hammond & Webster. He does not remember any others who represented the Company in these hearings, he thinks Judge Durham of Grants Pass succeeded when Vawter retired from the service of the Company. Dexter Rice of Roseburg also appeared in these contests. Dexter Rice is still local attorney for the Railroad Company in Douglas County, was interested in this last case. The first of these contests he had anything to do with, was about 1897 and these contests strung

along from that time down to October 14th last. He won in all of them and then did not get the patent, in all of them the Company got patent finally to some of them, portions of them, that is, he got the decisions but the Company got the land, not all the land, that was true in section 11, but this was not generally his experience that he would get the decisions and the Company would get the patent to the land. That happened in section 11 and partly in section 29; that is, as to the fractions of the claim. It was in 1897 or 1898 that Britt made this offer to compromise. There were a good many people who bought this railroad land that was thought to be mineral in character at a flat rate of \$2.50 an acre and took the Company's deed out there during that time. There were a lot of people who did not have any contests with the Company, rather than enter a mineral claim they would buy a forty from the railroad wherever they thought there was a mineral prospect, that was a way that was not regarded by himself or others familiar with it as a proper way to do it. A good many people who had no controversy with the Company would go to the Company, thinking they had a prospect for a gold mine on a forty and would inquire of the Company what it would take for its title to that land, finding it to be patented, and they would buy it at a flat rate of \$2.50 an acre. The business was handled for years prior to the time the land was taken off the market in 1905 or 1906 from \$2.50 an acre up. The mineral land did not go at a flat rate. This land in section 11, after the trial and hearing and the railroad had received the patent to it, he at-

tempted to buy it after they had got a patent. He did not lose, he won, but he never got the land. After he had this contest and refused to compromise he then wanted to buy the land. The Company wanted to sell it based upon the true value of the mine, and in this instance they would not sell it to him at \$2.50 an acre, he could not get the Company to set any definite price, they said it would be based upon the true value of the land as given by Mr. Mills. None of this land had any good saw timber on it, practically none. He supposes there is a lot of good agricultural land on it, but it was more valuable for mineral. He made proof in his cases that the land was chiefly valuable for mineral and that it was not agricultural and he produced witnesses as to the mineral character of the land, but he did not protest that it was not fit for agricultural uses. The decision of the Land Department or the Local Land Office was in his favor on that question, they held it was chiefly valuable for mineral. The Railroad Company finally got patents to some of the claims but not to all of them. He does not say that he thinks that particular land is chiefly valuable for agriculture. This decomposed granite that he speaks of is hauled by the carload by the Railroad Company and distributed in its various depot grounds and yards, as side walk and other stuff of that kind, so that a man going along the road down there and stopping at Grants Pass or Medford or Gold Hill would go out on this granite gravel walk around the railroad buildings and find it perfectly dry and almost solid. This would be agricultural and horticultural with water on it, he has

seen it demonstrated. He has seen very fine gravel lands in the Evans Creek district demonstrated to be orchard lands. Evans Creek lies immediately west and northwest of the town of Rogue River between Grants Pass and Woodville. The granite belt commences right close to the railroad. People did not settle largely upon this granite land, but have recently settled upon the granite land a great deal along the upper Evans Creek from Rogue River to what is called Bybee Springs, sixteen or seventeen miles. They raise alfalfa and onions on this granite land, which diffuses very readily. It is a different character of granite than that hauled by the Railroad Company. It is granite soil, and looks like mighty poor land to look at it, it is granite soil and there is some earth in it, it is not about three-fourths earth, he thinks it is largely just the decomposed granite. Granite is rock but is of different character, some has more mineral in it, more iron. He thinks that this desert land has not been attempted to be cultivated until about two years and a half ago, something like that, there are several thousand acres in that desert. He does not know where these people came from, they located water and built ditches, and it is called the Roguelands Company and the ditch is called the Butte Creek, he believes. The first procedure to develop that desert was to take a surveyor out and survey off certain distances where they were going to blast for trees, and set stakes where they would put holes, and there is soil of about eighteen to twenty-four inches deep, then they encounter what is known as hardpan and it averages about eight or nine

inches in thickness and is a sedimentary cement that has settled there, rock formations, and is what they call cement. They get below that by drilling a hole and blasting it, then they have a depth of rock and gravel underlying that, washed or boulder gravel, showing that at one time that land was at the bottom of an inland sea and on top of that above the hardpan is a silt soil of clay and it shows there has been an erosion from the higher hills at one time. At one time it had not occurred to him that it was worth anything at all. He does not think these people are going in there drilling holes down through this hardpan, blasting the soil and rock up, taking a steam plow with a depth of about two feet and undertaking to break through that hardpan in that way, they are not blasting altogether, that plow is not for that purpose, they plow the sub-soil with the plow, it is full of little ravines and pot holes, so they can build their ditches and irrigate all the land. They are not plowing under this hard pan where they are planting trees, they blast it.

Whereupon witness testified:

Q. Well now, they are planting young trees on there, two-year-old trees, aren't they, and getting water on, and they are making nice blueprint illustrations of these five and ten-acre tracts with this water, and selling a contract to carry water on there for a number of years, and trying to sell that to the general market at so much an acre? Isn't that the scheme?

A. I know nothing about that part of their proposition.

Q. They haven't yet got to the blueprint stage, the lithograph stage, have they?

A. I didn't go there for that purpose. I went to ascertain whether or not the lands were adapted or could produce.

Whereupon witness testified, that these people have a tract there, he should judge there were eight or ten acres in it, that they use for a demonstrating and experimental farm and experiment station, and he should judge, from eating the fruit of the trees, that there is water on the land to keep the trees green. He has eaten very fine fruit off of these trees, three year old peach trees, which he presumes the peach trees are fillers, he knows what a filler is and believes they are used for that purpose. They are planting apples and raising canteloups, tomatoes and watermelons on this experimental tract. He should judge the apple trees are about three years old, he does not remember whether they are bearing yet on this place. There is one place that has been there for a number of years, it is an old orchard, part of it, that is where their experimental farm is on that old place, an orchard of apple trees to be commercial must be about eight years old in the Rogue River valley proper, but in the higher lands, such as he knows, people have made a commercial profit in less age than that, about six or seven years, that is apples, and five years for pears. There is a person on these hills that he knows of, that he can name, that is today selling commercial apples to the trade. His

name is Firman Zana and his place is on a high mountain west of the Sams Valley country north and west of Gold Hill ten miles, he is on a homestead, witness does not think it is on a donation but thinks it is a homestead. He believes it is section 12, about three miles from Sams Valley postoffice west, and there are other places right along there in that neighborhood. He could not state the amount of Zana's sales, but he has bought apples from him for the last eight or ten years, quite a lot of fruit for family use. That piece of land has been settled, portions of it, for a long time, Zana set some out, and has some trees there that are four or five years old that are now bearing. It has been settled around Sams Valley for thirty or forty years, but this hill land has been improved lately, in the last few years. He does not believe that these places were taken up thirty or forty years ago, but he does not know when this place was taken up. There is a small amount, commercially, of grapes on these hills. George Lyman has a claim on very high land, just a small vineyard, he would judge about two or three acres, something like that. It has been put out a number of years and is an old vineyard, and sells grapes mostly to the stores there. He thinks they ship some from Gold Hill, which is about three miles away north. Lyman has been living there ever since and he has known him during his residence there. He guesses that his place was a donation or a homestead, settled a long time ago. Mr. Johnson has a vineyard on a very high hill, about a mile and a half from Gold Hill, it is a small place, something like two or three acres in vineyard. He sells

to the stores down town and to the people and he does not know that he packs any grapes for shipment. Witness has bought them in boxes, and has sold them for him. They are Tokay grapes and a dark grape, which he believes he calls Berkshire, some name like that. Johnson has been there for a good many years. He does not know where the exact corners are but he understands this vineyard was on railroad land that Johnson squatted on it. Johnson has been there during the residence of witness in Gold Hill and he thinks Johnson ought to have good title by limitation. Johnson has a ranch there that they call the Bible Ranch, he does not know positively whether or not the land Johnson squatted on is railroad land, he never talked with him personally about that, he was testifying as to the high lands, as to the production of the land, but he does not know whether this particular land was railroad land or not. This Bible Ranch was planted and cleared of brush on both sides of a very steep ravine, and it looks from a distance like an open book, like the pages opened up in a book, it is spread, his fields are, clear along his lines, which gives it that appearance, one can see that a good many miles, this place was pretty high and pretty rough. The Sugar Pine Door & Lumber Company did not cut over a good deal of land around the country that he has been testifying about, nor around Gold Hill. Gold Hill is a place of about 500 people. He has lived at Gold Hill during the whole time that he has been in Oregon. He has tried to do his part as a citizen, to promote the settlement of the southern part of Oregon, or of this portion of the

country. He is not in the real estate business and does not solicit any real estate to handle. He has never located, or tried to locate people on Government lands. There is a lot of Government lands in Josephine and Jackson counties unsettled and these lands are about the same general class as the railroad lands that are unsold. The lands that are more valuable than the lands around the Burrell orchards around Medford are largely taken. The balance in this district are not taken because it is pretty hard for people to maintain themselves on account of being away from the main roads as established by the county. They could get roads in there by taxation, but a poor man coming in to settle, it is difficult for him to bring these things about. He thinks that some of the Burrell orchard lands, which are about three and a half miles southwest of Medford, which had eight or nine year old pear tree orchards on them were sold for \$2,000 an acre and other orchard land that has two or three year old Spitzenbergs or Yellow Newtowns is sold from \$800 to \$1,000 an acre. They have several thousand acres of that valley land there.

Whereupon witness testified:

Q. Well now, then, if this unsold government land, and these hill lands generally, are worth more than that kind of land, I should think that they would have these big orchards all up on these hills.

A. They have.

Q. Where are they?

A. They are on the line of the road going south

from Gold Hill toward Jacksonville and on the west side of the road it is steep and mountainous. The east side slopes down to the Rogue river valley proper. In the past seven or eight years they have built and developed very fine orchards on that hill land.

Q. Name some of the people that own some of these orchards, and how large the orchards are within that territory seven or eight miles from the railroad.

A. I don't know the owners of the big orchards there.

Whereupon witness testified, that he calls twenty-five or thirty acres or ten acres a big orchard. They have cleared the land of the grubs and stumps and there is a lot of rock left. They have planted these trees on that kind of land. There are some of these trees that are eight or nine years old, the Van Vleet orchard, he could not tell how many acres each of these people have, but they have upwards of ten or fifteen or twenty acres. One man who ran for sheriff one time, whose name he cannot think of now, has an orchard. There are eight or ten such places along that hill land. They paid \$200 and \$250 an acre for it he is told. They bought it from the owners of it along there. Mr. Niedmeyer owns a tract there that is undeveloped that he has refused that much money for, he thinks, he would judge that it is about three and a half miles from the line of the road. It is all pretty rough and steep, and was not covered with timber at any time but with brush, principally shake brush or chaparral brush, as it is called. Some portions of Jackson County

have a lot of very fine timber in it, Josephine county has a lot of fine timber. These unsold railroad lands are pretty well covered with timber in the upper districts, not in the districts around Gold Hill. The foothills are not covered with anything except scrubby brush and things of that kind, and as one goes back from the foothills he gets into the timber, away up on the upper Evans Creek is what they call the timber belt, that is a part of it. He assisted Mr. Townsend in working up the testimony in this case of the witnesses around Gold Hill and Jackson County to some extent. He was not employed by the Government to do that. He has been here in attendance at court about ten days. He did not have a number of witnesses here from Gold Hill that he brought down, or that he notified Mr. Townsend would be good witnesses. He indirectly cited cases to the inspectors. The inspectors were representatives from the field division office. Mr. Laughlin for instance representing the Government and he gave these inspectors the names of the various witnesses that he thought would make good witnesses. He did not give him twenty names, but could have done so, he told him regarding Mr. Ray and he should judge he gave him half a dozen names. He did not take written statements from these witnesses himself, but just turned them over to the inspectors who took their statements. He does not think he gave a written statement to Mr. Townsend himself.

Whereupon witness testified:

Q. Well, you have kept in pretty close touch with

Mr. Townsend and his assistants since 1907, when he first came out here?

A. I have been very much interested, yes, sir.

Q. You have kind of had it in for the company, haven't you?

A. No, sir.

Q. You had no feeling of any kind?

A. No, sir.

Q. You felt kind of good after the company—after you had won these cases and the company got the land?

A. I felt that if there had been any justice done me, and done the people at large—

Q. Well, you started in to get even, didn't you, Mr. Beeman—just to be right square about it?

A. I was not prompted by any such motives, no, sir.

Q. You couldn't feel very good if you thought you had been wronged by the company in these mineral contests, could you?

A. Well, there was nothing vindictive in my attitude.

Q. No, if you are hit on one cheek you are willing to turn the other—I know that; but you didn't feel very kindly towards the railroad officials and the company after you had won the contests and then the company finally got the land, did you?

A. I didn't think that I had had a strictly square

deal.

Q. Well, naturally you wouldn't feel very good about it, would you?

A. I haven't anything personal about it, I wouldn't see them wronged, if I could help it.

Q. But still you have been pretty active since this agitation for the forfeiture of this grant, haven't you?

A. As a citizen of the state, I have, yes, sir."

Whereupon, on re-direct examination, witness testified that he had been living at Gold Hill all this time. He has referred to a large amount of Government lands in Josephine County, but over half of the County is in the reserve, Siskiyou Forest Reserve is one of the recent reserves and was created somewhere in the year 1907. Mr. Loughlin called upon him about three months ago. He came to Gold Hill and he introduced him to some people whose names he had already on his list. Some of the names, the people were here as witnesses. He does not know whether it is a fact that subpoenas were issued for all of them and some of them were not found by the marshal. Mr. Townsend has talked with him several times about this case since he has come here as a witness and before. In his talk with Mr. Townsend, Mr. Townsend said that he had heard of instances where the Railroad Company had by its deputies ordered settlers off the land and witness investigated and tried to ascertain whether or not there were instances where the company had done so, and Mr. Gingrass went upon the lands, witness knew that Gingrass intended to do that

so witness took witnesses, filed affidavits with the Railroad Company, he being one of the affiants, that were cutting timber, intending to hold and work the claim, and locate a permanent home thereon; that they had built a house, constructed a well, irrigating ditches, corrals and fences, and that Mr. Gingrass tendered \$2.50 an acre. Witness has the letters where the Railroad Company refused and sent back this tender, but did not order the man off the land, simply said that his offer was necessarily declined. He did not find that the Company had ordered him off the land. He found no instance where the Company had ordered the settlers off the land. He has never been in the employ of the Government and never received a cent compensation from the Government. His mileage and per diem as a witness here at this time will be the first money he has ever received in the whole matter. He is under subpoena as a witness on behalf of the United States.

Whereupon witness testified:

“Q. Now, Mr. Beeman, upon the question of your feeling toward the railroad company, and without asking you for the details of the matter, I will ask you if you are not at this time co-operating with the railroad company in certain litigation relating to the taxation of property situated in Gold Hill? I ask you that leading question in that form, because it is just the ultimate fact that I care for rather than the details of it.

A. Yes, sir, I am.”

Whereupon, on re-cross examination, witness testi-

fied that there is an attempt on the part of certain people of Gold Hill to pave a lot of streets down there and he is co-operating with the Company and other property owners in respect to that matter. This is a recent matter, within the last thirty days.

Whereupon, on re-direct examination, witness testified:

Q. Mr. Beeman here is one question that I want you to make clear. I asked you as to the percentage of these lands that you thought could be cultivated after being cleared, and if I remember correctly, you said approximately fifty per cent; and I then asked you what percentage of the quarter sections could be used for the purpose of settlement and cultivation, and my recollection is that you said fifty per cent. Now, in the latter answer I want to know whether you mean fifty per cent of the area of the quarter sections or fifty per cent of the quarter sections themselves?"

A. My understanding of the question was that I answered fifty per cent of the area.

Q. Well, what percentage of the quarter sections in that part of Jackson county and Josephine county covered by your testimony do you think contains enough tillable land or agricultural or horticultural land to support a settler and his family?

A. I think it would run upwards of seventy-five per cent of the quarter sections.

Q. You directed my attention during the noon recess to one instance illustrating the value of these lands

for agricultural and horticultural purpose. I don't recollect the details, but please explain it to the court.

A. The lands that are now held by the railroad company that I believe have a market value upwards to \$400 per acre.

Q. Upon what do you base that view?

A. The adjoining land sold, four and a fraction acres for \$2800, which I believe as a purchase price; I do know that the owners refused \$2200 for the tract, and it sold for, I believe, \$2800.

Mr. Fenton: How much in the tract?

A. Four and a fraction acres.

Whereupon witness testified, that adjoining that land is lot 5, section 21, township 36 south, range 3 west. He does not mean, of course, that all of the railroad land is of that value. That is a tract of eighteen acres in lot 5, eighteen and a fraction acres, he believes. That tract is well adapted to the raising of vegetables. The Germans on the adjoining tract raise very fine vegetables on the adjoining lands and it is exactly the same character of land, as those he spoke of.

Whereupon, on cross-examination, witness testified that this lot 5, section 21, township 36 south, range 3 west, containing eighteen acres lies half a mile west from Gold Hill, he should judge within half a mile of the city of Gold Hill on the banks of the Rogue River. It is gravel soil. He would not call it Rogue River bottom land. It is on the banks of the river, but it is on gravel

soil, the subsoil is rocks down, wash gravel, the gravel does not give it its value, it is very productive though. This eighteen acres is not occupied by any one. It is claimed to have been owned by a client of his who paid taxes on it for a number of years. This man thought he owned the land and claims to own it now. There is a fence around it, and he has claimed to own it for a number of years under the statute of limitations and he is paying taxes on it. It is not under cultivation. This man is Edwin Crews and his postoffice is Medford, he bought this land from his predecessors in interest, meaning his predecessors in interest were granted this land in 1884 by the Government. W. S. Fitzgerald transferred it to various people and it passed into the hands of Mr. Crews who thought he had a good title to it until after he had purchased. This is lot 5. Crews bought it from the successors of Fitzgerald. The Railroad Company claims adverse title to him. Crews claims to own it, he believes, by purchase. The patent has gone to the Railroad Company he has learned, since his purchase, on investigation that the patent has been issued to the Railroad Company. The date of the patent was some time in 1897 he believes. Crews has been in possession of it, he or his predecessors, ever since 1884, and they thought and believed they had a good title and witness believes that they have a claim there whether they can make it or not. Witness would not call it a good title, but thinks it is worth \$400 an acre and they have done nothing on the land, have not cleared it or anything. He believes Mr. Messner, the immediate predecessor, has

been paying taxes on it for five years and how long before that he does not know, the abstract shows the taxes are all paid on the land by these various people since 1884, it also shows that the Railroad Company has been paying taxes on the same tract, and the County has been getting taxes twice.

Whereupon witness testified:

“Q. Well, you speak of that to counsel for the government, not to illustrate the value of this grant that is unsold, but I suppose just to show what a valuable piece of land this fellow has got that he claims to have gotten away from the railroad?

A. There are similar instances where I regard the lands of a very high value comparing them with prices of adjoining lands.”

Whereupon witness testified that that tract came under his particular notice. He thought there might be like cases, he does not know of them though. He did not volunteer that to counsel for the Government since he was on the stand this morning. He spoke to Mr. Townsend some time ago and had forgotten it.

Whereupon, on re-direct examination, witness testified that the abstract of title furnished the predecessor of this land showed that it belonged to Mr. W. S. Fitzgerald; that a patent was issued to him for the land and it does not show that there was any patent issued to the Railroad Company for the land. It is a case where the Government has issued two patents for the same piece of land, one to the settler and then subsequently to the

Railroad Company covering the same piece of land. It was granted to W. S. Fitzgerald by patent specifically describing this land, lot 5, 18 acres, and acreage and everything tallies. The abstract was furnished by a regular abstract firm and he has had the abstract for his work and he has it in his possession. He believes it was a homestead patent prior to the railroad patent for this particular tract.

Whereupon GEORGE W. KEARNS, called as a witness on behalf of complainant being duly sworn testified, that he lives at Grants Pass, Josephine County, Oregon, and has lived there about ten years and has been engaged in the timber business there, and before he moved to Grants Pass he lived at Wolf Creek in township 33 south, range 6 west, in Josephine County, Oregon, and has lived in Oregon all of his life. He was born in Linn County and the greater part of his time he has been in Oregon but was associated with Sisson, Crocker and Company for about three years in California. He helped to build the Oregon and California Railroad from Roseburg through to what is known as old Fort Lane, that was when the road was started from Roseburg in the spring of 1881. He was foreman on construction work. He knows the country in the southern part of Oregon along the railroad and is pretty well acquainted is familiar with Josephine, Jackson and Douglas Counties and best acquainted as to detailed portions of the country in Josephine County. He has been engaged in the timber business for the last ten years handling timber lands, nothing only timber lands and

homesteads. He understands cruising and has done some of it, mostly all for himself, once in awhile but not often he does work for other people. He has become acquainted with the lands in Josephine County by being over these lands, locating them, cruising them and has been in most of the townships in the eastern part of the country where the railroad lands involved in this suit are situated. He is pretty familiar with the industrial history of that county. There are different soils in Josephine County. They have the granite soil, the red soil and that black river or alluvial soil and some of the lands are steep and rough and some of them are not. He knows where the Siskiyou Forest Reserve is, in Josephine County. He has a little County map that takes in about everything. He has worked in most every township in Josephine County outside of the Forest Reserve. There are about three classifications of soil there, granite soil, red shot soil and river black alluvial soil. He would think that part of the county would be about one-third each, as to these soils, he thinks that would probably be fair, along all the rivers there, the Illinois River and the Applegate River and the Rogue River and the other lands, he thinks would average pretty close of one-third each in regard to the classifications of those soils. The Applegate river soil will raise melons, grain, alfalfa, fruit and vegetables of all kinds. The red soil is good fruit land, good alfalfa land, good grape land, everything like that, if one has water. It must be or should be irrigated. Those granite lands, what are called granite lands, have soil in them, but they are demonstrating

beyond any question of doubt that they are superior fruit lands to the low lands. In section 12 in township 36 south, range 6 west, he believes there is a man who owns the southwest quarter of that section by the name of Skinner who has a homestead there, who has raised the finest apples and tokay grapes, strawberries and everything without irrigation, also peaches. In the southwestern part of section 12, the southwest quarter, that man there has the nicest fruit grown in the valley. They use them for demonstration there to show what the valley will grow, or what this granite land will grow. There is railroad land involved in this suit near that land referred to, used for purposes of illustration, there is section 11, which is all good land. Sections 1 and 3, each, is good land, he thinks one will find these sections still intact, owned by the railroad people. He thinks this map would show that there are some of these lands that have been sold in the grant there, the maps in evidence show for themselves what railroad lands are in the vicinity of the lands of which he has been speaking. They have been experimenting with these so-called granite lands with reference to growing agricultural or horticultural crops for a number of years. These orchards are bearing with which they are now demonstrating. This granite land grows the best of grapes. When he says granite land he means there is some soil with it, granite land is a mixture of clay of some kind, but to look at it, it looks perfectly white, granite in it, but there is soil in it. The granite itself is very hard, some of it. The Company has a big granite quarry where it takes out all the

granite for all its depots and everything like that, right where it is marked "Granite," in section 12, the same section he is telling about now. This granite, some of it, he thinks is in section 12, there is quite a lot of it that is in that section. This on these places of which he is speaking is decomposed granite, but that granite there, they have to shoot it, blast it, it is hard enough for good building stone and everything like that. The land that he has referred to by way of illustration is near the place where the Railroad Company is taking out this granite for its depot walks, etc. The three characters of soil in the territory with which he is acquainted in the vicinity and of the same general character of these railroad lands, as he explained granite soil is on the high ridges, the red soil on the low benches and the river soils generally in flats. All these soils will produce sufficient agricultural or horticultural crops to maintain a settler and his family on 160 acres of that land. The land in this part of the country, where the railroad lands are situated are all of that character. Of course there are some spots that have rock, but he would say that there was ninety per cent of it of that character of soils, and fifty per cent of the quarter sections there would be of such a character that if properly used, could be made homes of and support a settler and his family. There are instances where a quarter section would support more than one family and where a settler would not need a whole quarter. This is not theoretical in his judgment but he has seen it demonstrated there.

Whereupon witness testified:

Q. I will ask you whether, in your judgment, if these lands should be disposed of to settlers, they would become settled up and occupied by settlers, cultivating the land and maintaining themselves and their families, and making homes of the lands?

A. Yes, sir, I think they would.

Q. I will ask you then, whether, in your judgment, the policy that has been pursued by the Railroad Company with reference to the disposition of those lands, has retarded or promoted the development and settlement of that county?

A. I think it has retarded it.

Q. To what extent?

A. Well, to quite a great extent.

Q. Now, has that effect been limited to the railroad lands themselves, or has it also affected the development of the intervening sections?

A. Yes, it has the intervening, as well as the railroad lands.

Q. Do you know whether that situation is actually met with by the people of Grants Pass in their efforts to develop that country?

A. Yes, they are all very anxious for those lands.

Whereupon witness testified, that there have been people coming in there looking for lands to quite a considerable extent. They have calls all the time for homesteads, cheap lands. The Government lands are prin-

cipally all taken. There is some timber in Josephine County. The good merchantable saw timber would be in township 35 south, range 4 west, and in 5 west there is some timber, also township 34, 5 west there is some very good timber. The balance of the county has some timber, but not very much. In the western part of Josephine County, there is not very much timber. The Forest Reserve has most all the timber, and has covered nearly all the timber west of him there. The biggest part of the land about which he has testified would have to be cleared, it is good soil after it is cleared. In a number of instances there are places where they could get five or ten acres on the 160 acres that would be very light clearing, if any. In between most of these little creeks, there are creeks all through there, take township 36 south, range 5 west, and between all those streams there are hills and ridges. All those ridges are good soil and are covered with scattering timber, some of them are very steep, but at the same time they grow grapes on these lands where they are so steep that when they haul them off the hills, the sled runs onto the horses. They use a sled instead of a wagon because of the steepness of the ground.

Whereupon witness testified:

“Mr. Fenton: A man could fall out of his dooryard there?

A. Pretty near, yes, sir, some of it in places.”

Whereupon witness testified that he would say as a whole in this general vicinity he has referred to that there

would be twenty-five per cent of this rough land that would be tillable, that could be plowed. All these bottom lands could be plowed and he would think, but that is merely a guess, that there was fifty per cent of that bottom land that is not entirely flat, but comparatively level, which could be farmed, for instance the Illinois valley, the Applegate valley, Deer Creek valley and Sucker Creek valley, all of those valleys are comparatively level and cover from one to two townships, or maybe more. The country all around Kerby, Althouse and Holland is comparatively a level country, referring now to townships 38, 39 and 40 south, ranges 5, 6, 7 and 8 west. He is familiar, to a considerable extent, with the lands in Jackson County, he has done a great deal of work in township 33 south, 3 west, 34 south 3 west, 40 south, 2 west, 41 south, 3 and 4 west. There are railroad lands in these townships, odd sections, and these lands he considered timber lands; however, there is a lot of good soil in these lands, he would say that there is quite a per cent of these lands that would, after the timber was off, make good homes. All these bottom lands in Josephine County, to which he has referred are all in farming lands, mostly in fruits of all kinds. A great many of these bench lands and hill lands in Josephine County raise most everything, alfalfa and fruits of all kinds and vegetables of all kinds and he thinks he could, if desired, point to specific tracts of land in that county, as well as give general testimony with reference to it. Some of the even sections adjoining the railroad lands involved in this suit are used for agricultural and horticultural pur-

poses and are of the same character as the railroad lands and the same use could be made of the railroad land. The altitude of Grants Pass is 960 feet. There are some points in Josephine County where the altitude would run up to 3000 feet, possibly more. The hills and mountains there are all gradual slopes and he has known of instances where these hillsides have been used for agricultural or horticultural purposes. The lands he has explained in section 12, as above stated, are very steep lands, he would say the highest point on these lands would be 1200 to 1300 feet high. He has heard the testimony of Mr. Beeman with reference to the lands over in Jackson County and is familiar with some of the territory referred to in his testimony and he agrees with Mr. Beeman in so far as he is familiar with them. He thinks that is all the information he can give with reference to the character of the land there with which he is familiar, or that will throw any light upon the question whether the land could be used for the purpose of settlement and development. The soil is all right in most of these lands, only where the very heaviest timber is, and even at that there is good soil in them. In township 34 south, range 5 west, while it has quite an elevation, it has good soil and will produce, when the timber is cleared off. Timber grows there on the granite soil. The heaviest timber grows in Josephine County on what is called gray or red shot soil, red lands. There is a little milling or logging operation going on in Josephine County, but not to any great extent. He thinks Mr. Spaulding is the biggest operator

there now. He is over in what is known as the Sweet Basin country. In section 11, township 37 south, range 6 west, there is part of that that is sold by the Railroad Company that is the very best of land and the people who own it hold that land at about \$150.00 an acre, that is a fair and reasonable price, he thinks it is a very good price, but that it is worth that; of course it is improved and all that and the land is cleared and under cultivation and his general description is a fair representation of it, as a whole, he thinks. He considered these lands in the several townships in detail, including these railroad lands, at the request of the Government, he had a map of the Railroad Company which shows the railroad lands and also what is purported to have been sold off, whether it is correct, he does not know, the map is the same as these maps in evidence in this case, it is the lower section which includes Josephine County, covering ten townships, from 31 to 41.

Whereupon, on cross examination, witness testified that he is fifty-five years old and was foreman on construction of the road from Roseburg to old Fort Lane from 1881 to 1883. Old Fort Lane is above Gold Hill in the edge of the valley at the same station that is called Tolo, about three or four miles north of Central Point and three or four miles south of Gold Hill. He was engaged in this construction work between Roseburg and this point a little more than two years. He worked through the Cow Creek canyon, which was a very rough piece of construction, and in his judgment, as a railroad construction foreman, he would say that the Cow Creek

Canyon compared with the most difficult pieces of railroad construction in the west. The country on either side of the Cow Creek Canyon is right in a canyon, these mountains run up pretty high on each side there and they were then covered with timber. Since that time a good deal of the timber, close to the railroad, has been cut off for lumber or fuel for the railroad,—some of it but not all of it. There is not very much good saw timber close to the railroad between Tolo and Roseburg now. The valley that they went through with the railroad settled when they got there in 1881. He would think that, as a dealer in real estate, and a man familiar with the location of these bottom lands along the Rogue River and these other streams, that most of that land was taken under the donation land law, or under the homestead prior to the time the railroad grant took effect. All he knows about the amount of level or clear land in the valley or in the county being appropriated by homestead or donation claims prior to the vesting of the grant, is that when they got to Grants Pass and in going up the Rogue River, when they struck the Rogue River, these level lands were all owned, title had been taken from the United States and they were all owned at that time. Grants Pass, so they claim, was named for General Grant. There is not very much of a pass there, they went over the old stage road but it does not appear to him to be very much of a pass. He recalls that from Roseburg south over the old stage road through the Cow Creek Canyon, a stage was maintained from Roseburg to Redding in those early days, and that

they used the Concord coach and drove all day and all night and it took about two days and nights continuous driving to go from Roseburg to Ashland. He got in the stage once at Rock Point and he thinks he got on at three or four o'clock in the afternoon and they got to Roseburg the next day about the same time, a distance of about seventy-five miles. That road had been maintained as a stage road from the days of the discovery of gold in California until the time the railroad was built. He had the pleasure of riding the last stage that came over the Siskiyou. He does not know whether there is nine billion feet of timber estimated to be merchantable saw timber in Josephine County; he does not believe there is, that is drawing it a little strong. They have a lot of good timber in that country. The Sugar Pine Door and Lumber Company operated around Grants Pass and took a lot of that timber within a radius of about six miles of Grants Pass and maintained an establishment there and employed several hundred men for several years, until they got the timber practically all away within a distance of six or seven miles of the track mostly. After that, they hauled logs, skidded them in from west of Grants Pass, some five or six miles, but they did not haul logs into Grants Pass, they had little sawmills out there. He does not think there are twenty sawmills in Josephine County now all together. He only knows personally of two or three mills that are operating there in Josephine County.

“Q. Now, isn't it true, Mr. Kearns, that there is a lot of this land that you say could be cultivated, or made

tillable if the timber was removed, that is very steep, and a man could hardly drive his team or could'nt plow it up without he had a side hill plow?

A. Well, there is some of those lands in that condition, but however, they are doing it." They just turn their moldboard and go back, with a side hill plow they have, they can switch over and turn and go right back with a side hill plow. He has been at Grants Pass about ten years, engaged in the timber business and locating people in quarters of timber under the timber and stone act and in Josephine County he would not say that he had located, within the ten years under the timber and stone act, more than fifty or seventy-five persons. He charged a location fee. He would make an estimate of the land himself, had sufficient knowledge of cruising to be able to make a practical estimate upon which a man could safely buy. A fair marketable claim would carry two million feet. He has located quite a number of homesteads that had timber on but not good merchantable timber. There is scrub timber.

Whereupon witness testified:

Q. In going through looking for these timber claims, have you ever noticed a number of timber quarters that had been entered under the Homestead Act by single men, where the improvements had been abandoned after the title had been obtained, and where the title had been transferred to some of these timber holdings or investors? Have you noticed that in your observation in going through these timber regions?

A. I have noticed a great many cabins that has been abandoned, but that was in townships where it was unsurveyed, and it was squatters. But you take it in where the lands was Government lands, where they could get their filing on them, and prove up on them, I don't know of very many of them.

Q. Well, wasn't it quite a practice, and hasn't it been until the prosecution of the land fraud cases in Oregon about six or seven years ago, for people in the towns, to exercise their homestead rights on these timber-lands, and make an effort to comply technically with the Homestead Law, and then commute at the end of 14 months, and pay the \$2.50 an acre?

A. Oh, I know of a few cases, but there are not but very few cases like that.

Q. Never saw many since the prosecution of these land fraud cases?

A. Not so many before that. It is a pretty hard matter for a man to go out onto one of these pieces of land that is timber, you know, and try to prove up on it as a homestead.

Q. Well, they did do it in some instances, didn't they?

A. Oh, they have done it.

Q. Now, you say there are no vacant lands in Josephine County now?

A. Oh, there is some, I guess.

Q. I mean Government land.

A. There is some, I guess, yes.

Q. What is the reason that is not all taken? What is the trouble with it?

A. Most all the lands, however, in Josephine County that I know anything about personally had some kind of a filing, or tied up some way that it is not free to go and locate it.

Q. The Forest Service—I mean the Forest Reserve policy of this administration and the preceding administration has enclosed about one-third of Josephine County?

A. Oh, yes, can see here what it has taken.

Q. Has enclosed about one-third of Josephine County within the limits of a forest reserve. That is true, isn't it?

A. Yes, that is true.

Whereupon witness testified, that he thinks the population of Josephine County the last census was about eighteen or nineteen thousand, but he does not know the population of Grants Pass at that census but in his judgment it would have been about five thousand people. Grants Pass is the county seat of Josephine County which was created out of Jackson County, but he does not know when, but it was done, he thinks, before they built the railroad.

Whereupon witness testified:

Q. What, in your judgment, is the fair market value of all of the unsold railroad lands in Josephine

County? Just take that you know, now, what, in your judgment, is the fair market value of all these unsold railroad lands, supposing they could be sold in quantities of 160 acres, or not to exceed that?

A. Well, that, of course, would be owing to what a man would want them for. That would be only a guess on my part.

Q. What would be your guess?

A. Well, I would guess that those lands—

Q. Take them on an average now?

A. Take them on an average they are worth \$10 an acre.

Q. What in your judgment, would be the value of the best timbered lands that the company owns in that county, unsold, per quarter section?

A. Well, that is including the land?

Q. Yes, including the land and timber and everything there is connected with it, per quarter section?

A. The best timber-land would be worth \$5,000 or \$6,000 for a quarter section.

Whereupon witness testified that he did not participate in locating people under this Act of April 10, 1869, on these railroad quarters. There was a good deal of that done in that County and several hundred people sent hundreds of dollars but he never placed one of them yet, but he knows that that was done. He got all prices for locating people on a timbered quarter and generally got

all he could, he has got as high as \$600 and \$700 a quarter section from timber investors, this was good timber and it was not in Josephine County but in Jackson County, township 33, 3 west, a man by the name of J. H. McDonald of Port Huron, Mich., paid him that. McDonald got hold of 160 acres under the timber and stone act four or five years ago. When he was working on the railroad from Roseburg to Old Fort Lane, between Gold Hill and Tolo these lands through there were not considered worth very much, he understood that those lands right around Tolo there could be bought for about \$15.00 or \$20.00 an acre at that time, that was out in the valley, and the hill lands around Grants Pass were all vacant Government land at that time and there was then no market for them. The first timber inquiry began in Josephine County and Jackson County about eight or nine years ago, when it became a matter of commercial and merchantable transaction and became pretty active. He has been in the timber business, timber locator, for about ten years and he thinks that was about the time the timber inquiry began and he has continued in that business ever since. It is quiet now simply because there is nothing for them to take. Most of the people who have timber want to sell and he does not consider the prices very high. He has a lot of timber lands now for sale at different prices, ranging all the way from \$15 to \$30 an acre, which is about the ruling price at this time, these lands are situated in all parts of Josephine and Jackson Counties, he has quite a lot of these lands for sale, one tract of 20,000 acres owned by different people

situated in Douglas County, simply got it in shape for selling and he is trying to sell it to a large concern that can afford to buy it. The price is \$1.00 a thousand stumpage. That 20,000 acres it is estimated will cut 50,000 to the acre, which would make about \$50 an acre or about a million dollars. He has had it on his books about two or three months and thinks he has a prospect of making a sale. That land is situated in Douglas County on the Smith River, quite a ways, about fifteen miles from the railroad. That goes into something over fifteen miles before one commences to get into the timber and then the timber goes right along down the river. It is quite a ways from Eugene. Smith River is a tributary of the Umpqua and goes into the north side of the Umpqua. About twenty-five per cent of these rough lands about which he had spoken he thought could be made tillable and he would class as rough lands about twenty-five per cent of the total unsold railroad lands and of that he thinks twenty-five per cent could be tilled, after the timber was removed. He thinks take the whole grant over, that about fifty per cent of the quarters could be occupied by settlers so as to enable them to make a living on a quarter section. They could make a good living if they could get five or ten acres. If a man started in broke on there, he would do like they did in the early days in Oregon, the facilities for making a living now-a-days are different from what they were then, he could put up a tent, if he could not build a house, and he could get in a little garden and he could work around and make it. They could work out for the

first year or two and get money to support their families; it would not cost a man like it does, it would be a pretty hard matter, he could devote himself to the stock business too after he got started.

Whereupon witness testified :

Q. Now, isn't it true that most of these people that have gone out and settled on these even quarters, quarters in the even sections have three or four acres in garden and truck, and a few hogs, a few cows, and worked out part of the time, and then they get stock, and let the stock range out over the unenclosed lands, and in that way they get along until they can make final proof and get title to their lands? Isn't that about the way they do?

A. Well, some of them does that way, but my experience with the most of these homesteaders is now, that the first thing they do is to clean up a little piece of ground, and get in strawberries, and get in a good garden, potatoes and such as that, and then, if they are any ways close to towns, they can haul their wood into town. Wood is worth something, you know. They cut wood.

Q. Well, the towns are not very numerous except on the railroad, are they?

A. Oh, no, only the lands that is tributary to the railroad.

Whereupon witness testified, that there are practically no towns off the railroad there, but just post

offices. These homestead ranchers sold strawberries. This man on Section 12, sells a lot of strawberries, and is right close to Grants Pass and has a market. They are not all situated within four or five miles of Grants Pass, but they have it now so that they have auto trucks that go out there thirty miles and bring in that stuff, garden stuff and apples. They go as far as Kerby and up on Williams Creek and get garden truck and bring in everything and ship it to Portland. They are bringing in their apples now with auto trucks, they bring in about five tons from Williams Creek a load with these auto trucks. They are shipping them everywhere, they are shipping them east. It takes about eight years for an apple orchard to become a bearing orchard, he thinks, seven or eight years. A homesteader going out and putting out an apple orchard would have to wait about eight years but if he would put out a peach orchard he would not have to wait so long, from four or five years. A pear orchard would bear in seven or eight or nine years, something like that. The Yellow Newtowns or Spitzenberg is about the apple that they market in the eastern market. They claim to ship something like 25 or 30 carloads of apples annually from Grants Pass, and the bulk of them come from those bottom lands along the Rogue River and he does not know whether they ship a carload of pears from Grants Pass, he does not know how many pears are shipped. Shipments of pears of any great consequence, he thinks, are from Medford, Central Point and Ashland, and some from Eagle Point, and he thinks they ship more apples than they do from

Grants Pass, he knows that they ship a very large number from Medford and from the little stations on both sides of Medford along the railroad. He has been in attendance as a witness on behalf of complainant ten or twelve days and sometimes has been listening to the testimony of the various witnesses, he came down here ten day ago as a witness on behalf of complainant and has been in attendance on the court ever since. He has not been specially employed or solicited by the complainant to get any witnesses in this case. He was subpoenaed. He was interviewed by Mr. Schwartz, special agent of the General Land Office. He don't know that Schwartz is the regular inspector of the General Land office but supposes so. He has not had any litigation of any kind with the Railroad Company or in which it was interested.

Whereupon on re-direct examination witness testified that when he came here ten or twelve days ago, it looked to him as though there were a hundred witnesses for the Government ahead of him and those had to be called first. Very few have come since he came, most of them were here when he came.

Whereupon witness testified:

Q. Now, Mr. Kearns, with reference to the time that it would take a settler to establish an orchard on these lands, I will ask you whether the same problem does not confront a settler in the valley lands there?

A. The same thing, yes. It takes the same length of time. Only in these bench lands in these granite

lands—they are much earlier than they are in the bottom lands.

Q. Well, would the length of time that it takes to get a producing trees, either apple tree or peach tree or pear tree be any greater obstacle in the matter of settling these lands that you have been testifying about than it would as to the lands in the valley?

A. Not a bit. The same length of time. In fact, I think it would take longer.

Q. Where?

A. In the bottom, because, as I stated before, these granite lands when a peach is three and four years old on the granite lands, it produces.

Q. Well, now, how about the obstacles that confronted the early settlers in the valleys there? Did they have those same difficulties to encounter?

A. They had those same difficulties to go through that they would today.

Q. Did they have to work out until they got themselves established?

A. I suppose they did. I think the times are better now for those class of people than they were at those days.

Q. You were asked as to what a man would do who went out on some of these lands and was broke. Now, I will ask you what a man can do on any agricultural or horticultural lands in the world, if he is broke?

A. He cannot do very much. He can do the best

he can. That is about all he can do.

Q. Now, these people who have come to Grants Pass seeking lands of this character, have they come there broke, or are they people who have come prepared to buy lands and improve them?

A. Most of them have come there with—they have come there some of them with capital, capital to buy lands and improve them. Others come there with only a small amount of money. It was only four or five months ago I placed a man on a piece of land out there that only had \$250. It was a relinquishment. He got the relinquishment for \$250, and he has cleared up, and he must have ten or twelve acres cleared now. And he has absolutely made his living there since he has been there by doing this clearing, working for the neighbors around, and on his place, and improving it. His place today is worth—you cannot go and buy it of him. You cannot go and buy his relinquishment short of \$1,000 today, and that is about four months ago—a man by the name of Wise.

Q. Now, how do the lands along the railroad through Josephine County compare with the other lands in the county?

A. The railroad lands or lands along the railroad through Josephine County, some of them is about as rough land as we have got right where the railroad run.

Q. Does the railroad follow the canyons there?

A. The railroad follows the canyons and the

river.

Q. Speaking generally, I mean.

A. Yes.

Q. Of course there are some level bottoms that the railroad passes over, I presume?

A. Oh, yes.

Whereupon on re-cross examination witness testified that the Wise homestead that he bought is in section 2, township 37 south, range 6, about six miles from Grants Pass on the south side of the Rogue River, west in the foothills. It has some timber, it is brush land, but no saw timber. It was not vacant before this man relinquished it, it was a relinquishment and had been taken for two or three years.

Whereupon THOMAS BENTON MASTERS, called as a witness on behalf of complainant being duly sworn, testified that he is fifty-one years old, resides at Portland, Oregon, at the present time, but formerly resided for eight years in Polk County, Oregon, about the central part of the county. He was superintendent of the logging camp and cruising timber while he was a resident of Polk County, he was superintendent for the Willamette Valley Lumber Company. He has lived on the coast thirty-two years and has been in Oregon twenty-five years out of that time. When he first came to Oregon he was a street car driver on the Holladay line and went from that to railroading and from railroading went into the timber. The timber business has been his business for the last twenty-six years. Referring to "De-

fendants' Exhibit 259" he points out Falls City and Black Rock and he is acquainted there. He points out the right of way from Falls City to Black Rock, he located that right of way. From the break of the hill that runs between Falls City and the Lacreole, between the break of the hill, about a quarter of a mile this side of the break, which is really abrupt right there, there is not much timber. He is acquainted with townships 8 south, 6 and 7 west and part of 7 south, 8 west. Falls City is in township 8 south, range 6 west. He is sufficiently acquainted with this section of country to know the soil conditions and the formation of the land and the suitability of the same for agricultural purposes after the timber has been removed. He has been through that country and is familiar with township 7 south, ranges 6 and 7 west. Seventy-five per cent of that country in township 8 south, range 6 west, and the north part of township 9 south, ranges 6 and 7 west, in his opinion, would be susceptible to cultivation, after the timber is removed. He has been over township 7 south, ranges 6 and 7 west sufficiently to give him general information as to that territory and as compared with township 8 south, ranges 6 and 7 west, it would be just about the same. The north part of township 9 south, ranges 6 and 7 west, is better than township 8 south, range 7 west, better land. Where the timber is good it is just about the same, but the land is better, altogether better, more tillable land. He is acquainted with the general conditions of the southern portion of township 9 south, ranges 6 and 7 west, sufficiently to acquaint him with the general conditions there,

as compared with the other lands that he has been over and the general conditions are just about the same as they are in township 8 south, range 7 west. The township south of township 8, ranges 6 and 7 west, is better, a good deal better, that is the southern part of Polk County, that is a good deal better than township 8 south, range 7 west, but not any better than township 8, 6 west, generally. He had occasion every once in a while to go over these lands on what he would call a job of going out and cruising a piece of timber or looking for a piece of timber for the Company or someone else, and they would tell him to look over certain parts of certain sections and in that way he had a chance to get an idea of what the land was. As a timber cruiser employed in the timber he was required to make a report on the character of the soil and its suitableness for cultivation after the timber was removed.

Whereupon witness testified as follows:

Q. Now, Mr. Masters, if these lands were divided into 160-acre tracts, would this percentage that you have stated be generally carried out as to the number of acres that could be cultivated on the 160-acre tract?

A. Possibly there might be in one 160 acres that I know of, in 8-7, that there would not be 75 per cent. But in another 160 acres, there would be the whole of it in the same—well, in 8-7.

Q. Then the percentage would generally work out on the whole thing?

A. On the whole thing, yes, sir.

Whereupon, on cross-examination, witness testified that there are no mountains around Falls City or up towards Black Rock. What he means by a mountain is a place where a man could not take a horse or a mule or could not take a pack of one hundred pounds on his back or anything like that, that is, what he thinks is a mountain. Black Rock is between seven hundred and eight hundred feet above sea level, that is not what they call the coast range there, when they go out cruising, but when they go to the mountains, they go over about township 9 south, range 9 west, or over in that country. They always calculated that the mountains got higher until they got seven or eight miles beyond Black Rock as they go west, that is what they call mountains. There is not any timber to speak of south of Falls City. There is a lot of underbrush and second growth. It is wild and in brush and is not all cultivated. On the Luckiamute, west of Helmicks, all the way up for fifteen miles one goes into the mountains and is in the timber all the time, excepting what time one is not in the burn or in some little brush. Falls City by railroad is 9.45 miles from Dallas by what is called the Salem, Falls City and Western Railway. There never was but one sawmill at Falls City and that has been there fifteen years. There is a sawmill two miles west of Falls City. Falls City is incorporated. He owns property in Falls City. When he speaks of Falls City he means the corporate limits, just as one would mean if he meant in Portland. The sawmill that is operated there is known as that of the Falls City Lumber Company. The capacity of the mill for ten hours

he would say was 80,000 feet, cut into cants, not into inch boards, but into cants. There are three large timber concerns that do business at Falls City or near there. There is the Spaulding Logging Company, Charles K. Spaulding Company and there is what is known as the Dallas Logging & Lumber Company and the Great Western Lumber Company and then the Falls City Lumber Company, there are four instead of three, and these are all rather large concerns except the Great Western Lumber Company. They get their timber from the railroad, that is the Great Western Lumber Company and the Spaulding Lumber Company and the Dallas Lumber Company. He could not tell just where they got their logs or whether they own any timber land up there, he has heard that they do own timber land up there but he could not tell whether they do or not. He never knew of the Charles K. Spaulding Logging Company hauling any logs to Independence, but they are taking logs out on lands in that section up there. Charles K. Spaulding Logging Company is one of the largest logging and milling concerns in the Willamette Valley, they are not the largest, but they are one of the largest. The Booth Kelly Lumber Company is probably the largest, they are in the Willamette Valley. Up until within the last year, the Spaulding Logging Company did not take out as much timber as the Dallas Lumber Company. He has been over the unsold railroad lands in the places that he spoke of and can tell some particular sections of railroad land that he has cruised or been over. He has cruised some lands that the Oregon and

California Railroad Company owned or now owns in Polk County, and he did that for the Company about eight years ago, cruised forty acres for the Company which was in the northeast quarter of the northeast quarter of section 15, township 8 south, range 7 west. The railroad ran across one corner of it and took about one hundred feet of one corner off of that. He does not know that the Salem, Falls City and Western wanted to get a right of way across that forty but he knows that he cruised it, that Company got the right of way across that forty. It is his recollection that he found there was on that forty about 400,000 feet, that is a better forty than the average of that railroad land in there, it is not an average, but it is better than some of it. If it had been as good as some of it, Hirschberg would have had it. It is not an average forty that he cruised of timber lands that he knows there belonging to the Company, it is worse than the average and he thinks that the lands of the Company there would go a lot better than two million feet to the quarter of saw timber. He does not know all the lands that the Company has not sold, he only knows a little land that they had not sold at that time, that is that was supposed to have been sold, they would not average as much per quarter section as two million and a half, that is, not such as he knows. He knows of the unsold lands of the Company about six or eight quarter sections that is, of lands that are not sold, that is, he knows positively. He does not know whether the other lands are sold or unsold, but those that he is speaking about he knows are unsold, six, seven or eight quarter

sections that he knows are unsold would average very little timber per quarter section. They would not average a million to the quarter section, they have not been cut over, they have been burned, they would not average a million to the quarter. He has never cruised them and could not say what they would average, he would have to guess at that, this one particular forty that he did cruise. There was no use of cruising those because there was nothing to take off. His knowledge of the rest of the land there that belongs to the Company is just going through the country like a timber man would. He thinks that about seventy-five per cent on an average could be cultivated, after the timber was cleared and the stumps taken out, it would not be too steep. It would be better than land about Derry and Dallas but it would not be level, it would be better. Derry and Dallas are too flat, that is too flat around Derry and Dallas for fruit.

“Q. You don’t want the court to understand that this land that is lying back there in the foothills is better than the land in the Willamette Valley and ought to have been settled years ago, do you?”

A. Yes, sir.

Q. Then you have got the notion that the lands that are back in the foothills, covered with fir timber, however rough it might be, are better than the old Willamette Valley lands.

A. Yes, sir.

Q. I see. Well then why didn’t the people go in

there and take up the even sections fifty years ago? Why didn't they do that?

A. They didn't have no way of clearing those trees off them."

It is only recent years that they have gone in there to settle at all. He could not say that a good many have settled and taken homesteads in that timber country, have proved up and sold their timber claims to the Charles K. Spaulding Logging Company and other people, but he guesses that some of them have done that, but he does not know of any who have sold to the Charles K. Spaulding Logging Company. He does not know a man that sold any of them. They all sold before he got there.

Whereupon witness further testified:

Q. Well, you have gone out there and looked them over. You are a timber man, and cruiser, and dealt in timber quarters. Didn't you find quarters there that people were applying for and wanting to buy, timber investors, and didn't you sell some of them?

A. The timber is mostly all, when I went there eight years ago bought by three different parties.

Q. Who were these three different parties?

A. Spaulding Logging Company and Joe Hirschberg and the Willamette Valley Lumber Company.

Q. How many acres did Joe Hirschberg get hold of by one way or another?

A. I heard 19,000, but I never knew how many. That is what I heard.

Whereupon witness testified that he did not say that Hirschberg got the best timber, but would say that he got his money's worth. The other people that bought there, the Spaulding Logging Company, he does not know how much the Spaulding Logging Company owns, or how much the Willamette Valley Lumber Company owns, but they are large holders of timber lands in that country. He has tried to take a quarter section of this railroad land, he thinks it was the southwest quarter in township 8 south, range 7 west, in Polk County, he did not settle on it, he did not take it, but applied to the Company to buy it under this Act of Congress and offered them \$2.50 an acre, there were no printed blanks to sign. He just made his application put his money in, but they did not take his money. He made his application the latter part of June, 1907, before he applied to purchase. He knew what kind of land he was taking. He had gone out on the tract. He would judge there was about three million feet of timber on that quarter section, it is about eighteen miles from Dallas and about eight miles from Falls City, but not in the mountains. It is in township 8 south, range 7 west. He went through it, before he applied to purchase it and got a pretty good idea of how much timber there was on it before he applied. He offered to pay \$2.50 an acre and he expects the timber on it, if he could get a good title to that quarter section, would be worth \$1,000.00. He does not know if it is worth as much now as when he applied for it, he has

never lived on it. He lives in Portland and is running a woodyard, has a woodyard at 542 First street and has been in that business six months. Before he came to Portland he was living at Black Rock running a general merchandise store, and had been in the mercantile business at Black Rock two years. He did not apply to the Company to purchase this timber land while he was a merchant at Black Rock. Before he was in the mercantile business at Black Rock he was running a logging camp, superintendent for the Willamette Valley Lumber Company, and that was the time when he applied to purchase the land. Black Rock is just a postoffice—those logging camps, two or three little stores there mainly for the loggers.

Whereupon, on re-direct examination, witness testified that all of the best sections of the railroad lands there have been sold, and that was the reason he said that the ones that were unsold did not amount to very much, that there was not a million feet on them, he did not think. He knows there was not in fact.

Whereupon J. N. SWITZER, called as a witness on behalf of complainant being duly sworn testified that he is forty-seven years old and resides at Willamina, Yamhill County, Oregon, and has lived in Yamhill County forty-six years and one year in Washington County. He was born and raised in Yamhill County. His father was a farmer, and never had a very large farm, but owned at one time 320 acres close to Sheridan, which he sold, he was buying and selling, changing around, different times, never stayed in one place very

long on one farm until he got up in the mountains there and homesteaded. His father homesteaded in section 10, township 5 south, range 7 west and lived on his homestead about fifteen years. It was burnt over land, all dead timber when he entered it. His father cleared up about 18 acres of the 160, and there has been more of it cleared since, it had been pretty heavy timber one time in the early days, there had been forest fires which killed all the timber, a good deal of it was rotten. His father raised hay, vegetables, never threshed any grain there, always fed it out to the stock. The hay includes wheat, oats, vetch, they did not raise vetch then because they did not have it, they had wheat hay, oats hay and timothy, and raised all kinds of vegetables, carrots, parsnips; the soil was good soil. His father had about three acres of onion land and they raised onions on it for sale. They raised about six hundred sacks of onions there one year. He does not remember the year that his father went there, it was in 1878 he thinks, somewhere along about there that they went up into the mountains. That was the means of earning a support for himself and his family, there were seven children, this place was about twelve miles from the railroad. He has been engaged in farming pretty near all his life until the last three or four years, and has farmed there near Willamina, has farmed all his life in the Willamina Valley since he got hold of his farm and most of the time in township 5 south range 7 west. His father raised fruits on his homestead, had a few trees, not very many, never set out much of an orchard, about half an acre, but raised good fruit, the

soil was adapted to that, it was good fruit land, raised apples, pears, plums, berries. Willamina is in the valley. His father's homestead was right at the head of the valley, one might say it was out of the valley up in the edge of the mountains. He means the Willamina Valley, is up on the Coast Fork, a branch of the Willamina River. Referring to "Defendants' Exhibit 259" his homestead was right on the forks of this creek in township 5 south, range 7 west. There is very little of that land marked in green on this map that shows south and west up there, there is section 27 which is every bit of it good land, and is in township 5 south, range 7 west. There is one small part of that which shows green there, part of that has been bought years ago, the yellow part there. It does not show on there, and that marked red is railroad land that has been contracted, but the railroad company still has title to the land. He is familiar with that part there that is red. There is no waste land there on that section 27. Section 15, in township 5 south, range 7 west, is all timbered land, there is 600 acres of railroad land in that, and one forty sold out of that section 15. There is about fifty per cent, it would run near sixty per cent of that section that could be rendered suitable for cultivation, for tillage, after the timber is removed. He has a pretty fair knowledge of the lands in township 4 south, range 7 west, and of that country and the existing conditions there. He is not very much acquainted in township 4 south, range 6 west, he has been there but has never paid much attention to it, he was over there for stock. He is acquainted with the general con-

ditions existing in that township and is acquainted with the general country in the parts which show the green markings there on the East Fork of the Willamina. That is a timbered country in there. Take the whole thing, after the timber is removed, about forty per cent of that land could be rendered suitable to cultivation. He has a general or specific knowledge of those lands marked in green, in township 5 south, range 7 west that he has not mentioned, and he would say that probably forty to fifty per cent in township 5 south, range 7 west, that he has not specifically mentioned by sections, could in his opinion be rendered suitable for farming purposes. There are people living, making homes and farming the lands similarly located in these townships, 4-7-, 5-7 west. Township 5-7 west has been settled quite a long time, most of that land, some of that land was taken under the old donation act in township 5 south, 7 west, quite a bit of that was old donation. If this land were divided into 160-acre tracts these percentages of plow land would generally hold good, in his opinion, that is, there would generally be these percentages of plow land as to each 160-acre tract.

Whereupon witness testified:

Q. Mr. Switzer, in your opinion, what has been the effect of the Railroad Company's failure to follow the conditions of the grant and sell to actual settlers at \$2.50 an acre, in tracts of 160 acres in this community that you are acquainted with in Yamhill County?

A. Why, it would all be taken. It would all be sold

at that price now.

Q. To actual settlers?

A. Yes, sir, settlers would buy it now. Most of the Government land is taken in township 4 now. Nearly all the Government land is taken up, and in 5-7 it is all taken, I think. I don't think there is any Government land left there.

Whereupon witness testified that all of the Government land there has been homesteaded, all homesteaded in there in the last two years. There have been some forty odd families located in townships 4 and 5 south, range 7 west. The first settlers in the settlement of this country went on the low lands, the valleys, and open places along the streams. The more recent settlers have gone on the hills, the land is rolling, all of it mountain land, a good deal of level land on it, nearly all of those more recent settlers there have a little piece of bottom land on some of those creeks and streams, these townships are well watered, every forty has water on it, in either township, he thinks. He does not think there is a forty but what there is water on it, springs, there might be a forty too, but one could not take an eighty without getting a spring on it.

Whereupon on cross examination witness testified that his father's first name was A. J. Switzer, and he took a homestead and lived at one time over on Red Prairie in Polk County and on Mill Creek and had a place over there, it was about four or five miles from the

county line where he lived, he does not know what donation place it was, but it was a donation land claim and he was living there in 1868, 1869 and 1870, along there, he does not remember when he lived there. His father left there and went over to Washington County, they were there a year and then they came back and lived right south of Sheridan for a year and then went into the mountains. When they lived south of Sheridan they lived on a donation claim, Johnson owned the place at the time they lived on it, it was south of the Scroggins place, right up on Red Prairie there. He does not remember when they went up on the upper Willamina and his father took this homestead, but he thinks it was somewhere around 1878. At the time his father went up there he was the last settler on the creek. There was another man who went in the same time he did, a fellow by the name of Burton. At the time his father took that land he took the first place that was not taken up that creek, a man by the name of James lived there below, and it was four or five miles up the creek by the road from the donation land claim of Charley Fendell. Willamina is a place of about 500 people, at the end of the railroad that runs from Portland out to Sheridan, it goes about four and three-quarters miles from Sheridan to Willamina. The railroad has been there about five years, he thinks it was built four or five years ago by the Newberg Pressed Brick Company, it has a brick plant at Willamina, and they built that branch to ship out this stuff. Around that Willamina country is an agricultural and fruit district, and the last ten years a good many people

have come in there from Tennessee and other parts, and have settled around Willamina. There was no donation land claim adjoining his father's homestead, it is all homesteaded. His father sold to Jack DeLashmutt who lived on it. It was a stock ranch, and that is about the way his father and his family made a living on that place. They kept some cattle and hogs and their stock ran out there in the mountains, it was all open then to pasture. A good many claims have been taken, homesteads have been taken in the township north of this one in township 4 south, range 7 west in the last two years. That used to be a timbered township, but it is all burned over, there is no green timber on that township at all now, it is an old burn. It has been, he would guess fifty or sixty years since the first big burn. Every few years there would be fire come through there and burn it. There is no young fir on it to speak of, once in awhile there is some young fir. If fire had not been over that every year, there are some places where the young fir would have come back, some places where it would not. The stock keep the young fir down as much as the fire. Take that country close to Willamina, it has a heavy forest on it, it has saw timber and the reason is that nothing was ever done with it, they just let it lay idle and the timber came up on it and it is a pretty heavy forest now, all second growth fir, they are making ties of it today, it has grown, he would say just exactly, but there are trees there that have come up since he went to that country that they are sawing ties out of now, that is trees probably eighteen inches at the butt. If fires and stock had not interfered

the young fir there, in its native state would reproduce in the course of fifty or sixty years and make saw timber. This old burn has been taken the last two years, quite a good many people have gone in there and taken homesteads, they have not much clearing to do, they have the old logs and stumps to take off the land, and there is quite a bit of hazel and vine maple brush coming on this land, which has been growing, the fire kills it every few years and the stumps are in there and old roots, but the brush does not get very high except along the creek it grows very high and rank along the creek. The best timbered township in there would be township 4 south, range 6 west, he thinks, no, township 5 south 7 west, there is some timber, but not much in those two sections. There has been no timber logged off of the railroad lands and sold to the sawmills or cut down, he thinks, but there has been on the even sections, some of the even sections have been taken as homesteads and they are all cut off, sold off now on the homesteads. These people that took the homesteads in these timbered parts, did not sell the land to timber people, they cut the timber off, sold the timber there to the mill, sold the stumpage. He does not know about what a quarter section of that best timber would run in million feet. He has no knowledge of timber himself. He never cruised in his life. There is considerable good timber in sections 27 and 11 of these unsold railroad lands. Section 27, township 5 south, range 7 west is not clear land, but is good land, it is all timbered except about ten acres of prairie in it that has been plowed, the rest of it is timber, second growth

timber and some old growth, but it is good land and lays good and is all good soil, referring to the 121.20 acres of unsold lands of the Company. In section 15 there are 600 acres of unsold railroad land which is not all timber, there are some open burns in that, not very much though, it is mostly timber, there is a small burn in which the timber that is left is old growth timber, pretty good timber. The land adjoining section 15 at the present time has been selling at from \$25.00 to \$30.00 an acre, and the land in section 15 is worth \$25.00 an acre for the timber alone. A man could afford to buy it for \$2.50 an acre just for the timber.

“Q. And when you say that most of all that would be bought and settled upon at \$2.50 an acre you mean that they would pay \$2.50 an acre for most any of it there, and make the best use of it they could?

A. Yes, they would buy all that open land at \$2.50 an acre now.

Q. Practically all the unsold railroad land in townships with which you are familiar, if put on the market at \$2.50 an acre would be bought up wouldn't it?

A. Yes, would be bought up.

Q. By speculators or investors?

A. No, settlers would come in there and take it right now.

Q. I understand, but wouldn't it be a good investment for one to buy that 600 acres at \$2.50 an acre?

A. Yes, it would be a good investment for any man,

Q. I could make a good investment to buy any of that land at \$2.50 an acre?

A. Yes, sir.

Q. And I wouldn't have to live on it to make a good investment, would I?

A. No, sir, wouldn't have to live on it."

He is not much acquainted with township 4, 6 west. He has been over that, it is directly northwest of McMinnville and he is not acquainted with that very well. The Jones sawmill he does not think is in township 4 south, range 6 west, he thought that was further over. Fairchild is on the north fork of the North Yamhill, which is in townships 2 and 3, ranges 5, 6 and 7 west. 3 west would be immediately west of Carlton. He is not much acquainted with that at all. He lived there when he was small. He was born right there close to Carlton. McMinnville is in township 4, range 4 west, and the county line between Tillamook and Yamhill corners over west of McMinnville about ten miles. Willamina River as shown on this map has an east, middle and west fork, and Willamina River runs up into that timbered country in township 4 south, range 7 west, and the stream runs south to Willamina. Charley Fendell's donation land claim is just up the creek from Willamina in section 25, about two miles from Willamina. He notices these yellow sections all around in there on both sides of the Willamina Creek, running clear up into township 4 south, range 7 west. His father's homestead was in section 10, township 5 south, range 7 west, on a direct line about

five or six miles beyond Willamina. He was over on the Coast Fork. Not all of that country, in yellow there, is rolling foothill country, some of it, quite a bit of it is valley land. The Fendell place is all level valley land on the Willamina River, out from the river it is all rolling land. The Willamina Valley, where the Fendell place is, is a narrow valley, a narrow little valley of low lands and runs up on the hills. Sheridan is four and a half miles east of Willamina. Those foothills north and northeast of Sheridan towards McMinnville are all bald hills with quite a bit of brush and small grubs on some of them. In the early days the oak grub were not nearly as numerous and heavy as they are now, lots of that oak has grown up. He was told in that section of the country before it was broken up, that grass in the Willamette Valley and foothills there grew from a foot up to four and five feet high, but he did not notice much about that, they told him in an early day that grass was all over the valley as high as a horse's back. The fires kept everything down, the Indians kept it burned off. As soon as the whites got hold of the land, it has grown up, since pioneer days, with enclosure of the premises, and the stopping of the fires, the timber has increased and become more than there was before, excepting where it was grubbed. He thinks Yamhill county, this section, is one of the oldest settled portions of Oregon. The Grande Ronde Valley is west of Sheridan and Willamina about seven or eight miles, about seven miles to the edge of the valley. He thinks General Phil Sheridan had a fort there at Fort Sheridan in about 1860 or 1861

before the war. The old fort stood there until two years ago, when it was removed to Dayton and preserved by the people of the town as historical. The Grande Ronde Indians were put on the Grande Ronde Reservation and later on the Siletz. There was some settlement in these foothill lands prior to twenty years ago in a few scattering places on the creeks as they ran up. These foothills around Sheridan have been owned longer than twenty or twenty-five years ago, they have been settled quite awhile, they were in the country when he was there, and it was all open country. There have been no settlements in the timber back there, not away back until within the last few years. Before that there were some few ranchers on the creeks in the stock business, some up on the hills in township 4, there have been some ranchers for the last twenty-five years, they were not stock men, they kept a few head of cows, that is all, they cleared up quite a piece of land, some of them did in township 4 south, range 7 west. These railroad lands have not been much in demand until within the last ten years, there was nobody in there buying any land at that time. People come in thicker now and they want the land. Timber became the object of considerable inquiry in his section of the country eight or ten years ago, eight years ago and timber has become pretty valuable now. These 600 acres in section 15 are chiefly valuable for timber, more valuable for timber than for anything else now, but it is good agricultural land when the timber is off. It would cost quite a bit to clear it, some parts of it would cost almost as much as one could buy the cleared land for,

in some places a man could get 25 or 30 acres clear, once in awhile. To clear land would cost pretty much as much as to go and buy cleared land.

RE-DIRECT EXAMINATION.

Q. Now, Mr. Switzer, the settler who goes on the land, what method does he use in clearing the land? Does he hire it done?

A. No, he clears it himself, as a general thing. He goes on there, and he clears a little every year, what he can.

Q. Would it be possible for a man seeking a home of moderate means, to obtain any lands at \$2.50 an acre that he could clear up and cultivate?

A. Oh, yes, yes.

Q. By his own labor?

A. Oh, yes.

Q. At \$2.50 an acre, that he could clear up?

A. Oh, no, not clear for \$2.50, no.

Q. I don't believe you understood my question, Mr. Switzer. Could a man go over into this country, and buy land at \$2.50 an acre?

A. Could he go and buy it?

Q. Yes. Are there lands for sale there at \$2.50 an acre?

A. No. No, there is none there for sale, no, I should say there is not.

Q. Then a man seeking a home, having small means, he could not go down in the valley and buy land, could he?

A. No, he could not buy land in the valley there very cheap.

Q. His clearing of this land, his labor in clearing this land, would be something like putting money in a saving bank?

A. Yes, something like that, yes.

Mr. Fenton: You can't very well convince an old settler of that.

A. They go in there, and they get a little place and they clear up a little every year. And in a few years they have got a home. There is one man up there that got a piece of that land, bought a piece of it one time, and sold it a few years ago, and he has been offered \$100 an acre for it. He has cleared it all up, and got it in cultivation. One forty of that 160 he was offered \$100 an acre for.

Q. Where was that?

A. Township 5, Range 7.

Q. Was that timbered land?

A. It was burned over land, hill land, this red shot soil.

Q. Is that the same character of soil that is found on these lands?

A. Well, it is different from valley land below, but

it is the same as the hill land all over 4 and 5. It is that kind of red shot soil, the hill land. The bottom land is kind of black loam on the creek, some sandy.

Q. You spoke about this section, its chief value being for timber. You mean in its present condition?

A. In its present condition, yes.

Q. It could not be farmed until the timber was removed?

A. Oh, no, it could not be farmed until it was cleared up. A man would soon clear up 25 or 30 acres on one part of that section that is a burn, lays nice, very. It has been burned ever since I can remember, fire went through there.

Q. Mr. Switzer, how is this land adapted for fruit raising?

A. It is good fruit land.

Q. Are the settlers in there raising, successfully raising fruit?

A. There has never been very much orchard put out there, only one upon the hills. There was one put out there 18 or 20 years ago, a small orchard. It is a fine orchard, bears the finest kind every year. It is good fruit. There has been quite a little set out in the last three or four years. There was one 20-acre orchard set out in 5-7.

Q. That has not had time to mature yet?

A. No, on the hill, right adjoining it, close to it, there is an orchard been bearing there for a number of

years.

Q. How, if at all, has the demand for lands for settlement purposes, homesteading purposes increased in this community?

A. Oh, it has increased wonderfully in the last four years, five years. They have taken everything they can get hold of, settlers are coming there, getting in there and getting on all the land, wherever they can get a forty they are taking it.

Q. Are they carrying on dairying to any extent in this country?

A. Yes, up there on the Willamina there is quite a few of them dairying.

Q. Has that industry increased in the last few years?

A. Oh, yes, sir, a few years ago there wasn't any one dairying in there.

Q. Where is your nearest creamery?

A. We all ship our cream from that country to Portland, Dallas, Corvallis—we haven't any creamery close. They run a wagon up there clear up to the head of the Willamina.

Q. That is a wagon collecting cream?

A. Yes, the Hazelwood. I used to run a wagon for the Hazelwood myself up there and collect cream, seven or eight miles above the town.

Q. That is the Hazelwood Creamery of Portland?

A. Yes, sir. They get all the cream from that country pretty near, most of it. Independence gets some, and Corvallis gets some.

Q. How are these lands adapted for dairying purposes?

A. They are all right for dairying. That is really the finest vetch there is. They are adapted to vetch. Then the wild pea-vine grows all over that country, used to.

Q. Now, this burn that you spoke of, Mr. Switzer, did that burn destroy the soil?

A. I don't think so. It seems to produce mighty well anyway.

Q. In your opinion, would these lands, if divided into 160 acre tracts, be suitable for settlement in areas of 160 acres, that is, where a man would go on with the purpose of farming and making a home of it?

A. Oh, yes, on 160 acres, a man could make a home there on 160 acres of land.

Whereupon F. J. STEWARD, called as a witness on behalf of complainant, being duly sworn testified that he is sixty years old and lives in Sheridan, Yamhill County, Oregon and has lived in Yamhill County fifty-five years and in Oregon since 1852. He was not born in Oregon, but when he came here he was a small boy. His occupation since he has been a resident of Yamhill County was that of a farmer and he has been engaged in farming on the south and west part of the county and

has farmed several different places there. There was the black, rich soil farm lands, some nice farms and some bottom land that he farmed. They were lands that were taken up in the early days, he thinks, which were used for farming purposes, that land was taken up under the donation land law. He took a homestead in township 4 south, range 7 west, it was high mountain land, situated in section 32. He has had experience in farming mountain land as well as valley land. This mountain land produces pretty nearly everything one would try to raise. There are some fruit trees and gardens. People have gardens up there, and they raise hay, grain hay. There is no threshing in there because it is an out of the way place for a threshing machine to get at. They do not raise grain to thresh, but they raise stock and fruit and garden. One might call it a farming country, the way the people live there. The land is used more for dairy-ing purposes and raising stock. Referring to "Defendants' Exhibit 259," he is acquainted with township 3 south, range 7 west and township 4 south range 7 west, mostly acquainted with them. Township 4 south, range 7 west is on the west fork of the Willamina. They do not call that Willamina branches there, they are named by these creeks, West Fork of Willamina is called Coast Creek, that is the way they are named on their blue prints on the map there. He is better acquainted with that country by following the names of the creeks. The East Fork of the Willamina is called East Creek, that is in the green section of timber there, and on the Coast Creek country, all of that, and in through that country there is

all a burned district, has been burned off years and years ago, before he was acquainted with the country it had been burned off. There has been heavy timber all through that country, and it was burned, and the fire killed the big growth, and the timber stood there for years, until it became rotten, then it breaks and falls on the ground, that is in townships 4 and 5, range 7 west, that is the big burn, goes clear through to the coast, it goes clear back, reaches over to the coast and about forty miles wide, clear through along the Coast Range and goes clear over to Nestucca. He has been over these lands and he thinks he is acquainted with the conditions of them, the soil conditions and the growths that are on the land and the possibilities for agriculture and in this particular country that he speaks of there are thirty-five to forty per cent of that land that could be tilled. Judging by the places that are taken, claims they call them, people that have settled in there, that is in the area covered by the grant marked there in a general way, in his opinion, that this percentage would hold good as to 160 acre tracts, if divided into subdivisions. They could not perhaps take 160 acre tract and cultivate it, one could not start in and get thirty or forty per cent just in one place, in one certain piece, but one could have a field in one part of that tract of land, and on another portion of that land one could take a nice little field where people could open up and clear up the ground. That area is not heavily timbered, it is brush, it is not timber in that, most of that, some of it, in certain sections that he knows of has timber on it, but the most of it is what

they call the burned district. There are settlers in that burned area. That land has been settled there ever since the people seemed to find out that there was a place for homes there. The way that he looks at it, the people who advertised this country here up along the areas there along the coast have enticed homeseekers to come there and hunt for homes, and that has been of late years, just the last few years that they seem to know that they could go and make homes there. A good many of them are successfully farming this land, they are there, they have brought their household goods there, got pianos and all nicely fixed. Those lands were acquired by homesteaders by taking quarter sections, the settlers that are on them.

Whereupon witness testified:

Q. Mr. Steward, in your opinion, what has been the effect in this community of the Railroad Company's failure to fulfill the conditions of the grant, and sell to actual settlers in tracts of 160 acres, at \$2.50 an acre?

A. I don't know as I know exactly the conditions that the Railroad Company agreed to, on this land. But there are people now that would take the land and buy the land if they could get it.

Q. Well, assuming that such a condition exists, that the Railroad Company were required to sell at \$2.50 an acre, in tracts of 160 acres only, to actual settlers, people who would actually settle upon the land.

A. Yes, sir, they would.

Q. What has been the effect of the failure to fulfill those conditions in this community?

A. Well, I hear people say that if they could buy a certain quarter section of land there, they would like to buy it. That has been the talk for a good many years.

Q. For what purpose did they desire the land?

A. For homes, for a home, yes, sir, to make their home on it, and to improve it.

Q. In your opinion, if this land was opened up to sale at \$2.50 an acre, only to actual settlers, would the land be taken by people who would take them up in such tracts for homes and farming purposes?

A. That is what people tell me they would do.

Whereupon on cross examination witness testified that he took his homestead, he thinks, nine years ago. He took the northwest quarter of section 32, township 4 south, range 7 west and it is about eleven miles from Willamina in an old burn. There was timber and brush and dead timber on it when he took it. There was no saw timber on it, nothing but logs. He did not live on his homestead at all one might say, he took the claim there and his wife felt that that was not a very nice place to live so he had a little house and barn put up there. A man paid him a little something for his house and barn and he relinquished his rights and never really lived on the homestead. He thinks he got \$35.00 for his improvements and the man to whom he relinquished, filed

on it. His name was Cossach, a German. He did not perfect title, he lived on it, he and his son together stayed there about a year and they relinquished to a man by the name of Ryan but he does not know what they got for their relinquishment. Ryan did not prove up on it, Ryan did a little work on it and was called to Alaska and went away. It seems as though he had to go away, and a man told him a few days ago that he paid him \$300.00 for his improvements. He was improving it, going ahead with it. He relinquished to somebody else under some circumstances a short time ago and that man is living on there now and has filed on it as a homestead. He does not know if he will relinquish or not. He might if he could get enough money out of it.

Q. You don't know whether he will stay on it and prove up?

A. No, I could not tell you that.

Q. It was not a very desirable quarter, then?

A. Well, not very. There was a railroad quarter down this side I would like to have got, but I thought if I could not get it, I would take the other. It was on an odd section. I don't know whether it was railroad land or not.

Q. The railroad section this side was on the market at one time, wasn't it?

A. Yes.

Q. Do you remember what the company offered it for, before 1905, about the time the change of adminis-

tration in the land grant came about?

A. No, sir, I do not.

Q. Well, anybody could have bought it 20 years ago for practically nothing, couldn't they?

A. I presume they could have got it cheaper than it could be got now.

Q. Don't you know, Mr. Steward, that a great deal of this railroad land there in the foothills and around could have been bought 25 years ago for probably \$1.50 or \$2.50 an acre?

A. Yes, sir.

Q. There was not any demand for it, really, was there?

A. No, sir. There was not the people here to ask for it. There was not the home-seekers.

Q. I know, but there was no settlers that wanted it?

A. Settlers had just worked back, they had taken claims along here, it was not policy to jump back on that land.

Q. I understand. What I mean is 20 years ago these railroad lands had no particular value to anybody.

A. Didn't seem as though they did, no, sir.

Q. Consequently there was nobody asking for the lands excepting a few farmers who wanted a forty adjacent to them.

A. Yes, that is it.

Q. And as the country filled up, and principally within the last five or six years, or seven years, and particularly since timber became an item, all the good timber-land in that whole country has been taken some way or other, hasn't it?

A. It has, yes.

Q. Some of it taken as homesteads, and some have taken it under the Timber and Stone Act?

A. Yes, sir.

Q. And the lands in this burn and open place are begun to be settled more or less?

A. Yes, sir.

Q. Some of them having the experience that you had, of relinquishing, and never going on?

A. Yes, sir.

Q. And others taking it, the second man relinquishing, and so on, until somebody has finally got the title to most of it?

A. Yes, sir.

The farming that he had done was chiefly down in the valley. His father's farm was about six miles, five miles southwest of McMinnville in the old settled place and was a donation land claim, the William E. Warren donation land claim and one immediately south of that was the Richard Miller donation land claim and all that country was taken up under the donation land law, 640 acres, and the foothills as they were bare and open were

taken under the homestead, and sometimes partly under the donation law. He remembers where Charley Fendell's donation land claim is. It is two miles up the creek from Willamina and he has been there a long time. His brother-in-law, N. K. Sitton, lived down near Carlton on a donation land claim too, he thinks.

Whereupon, on re-direct examination, witness testified :

Q. Mr. Steward, you spoke, or rather, Mr. Fenton spoke of the lands being on the market in the early days, and there were no takers. As a matter of fact, there were even sections open to settlement there?

A. Yes, sir, the even sections.

Q. Which a man would have to pay nothing for to the Government except filing fees of \$4.00?

A. Yes, sir.

Q. Those were the lands that were taken by those first men that came in there?

A. They were the lands that were taken, yes. Under pre-emption law, there was some pre-emption claims at that time.

Q. That was prior to the Homestead Act, some of them?

A. Yes.

Whereupon witness testified that on this homestead that he took there he sold his improvements, that was all, and really received no compensation for relinquishing the claim. The man that is on the land now is clearing

it, slashing the brush off and clearing it. He has a garden on it. The railroad quarter of which he spoke that he would like to buy is in section 29, township 4 south, range 7 west, it is good land, creek bottom partly, it is quite good land. What they call Kennedy Creek comes down through there and there is quite a bottom of nice land through there, some bench land and fine grazing land, alder, ash and willow. It would just depend on how much a man cleared of this track as to how much plow land could be obtained, it has small brush stuff that could be cleared and one could plow quite a big per cent of it, it has no value for the timber that is on it and is only valuable for the agricultural uses to which it could be put. There is quite a little bottom along up through, of flat land, along up the branch flat land, they call it beaver dam land, good land for raising vegetables, anything like that, beaver dam land, as they express it, is very rich soil. One finds a piece of that land, as one goes up on the high ridges, there is high ridges, pieces of land one could not farm at all on this land, perhaps, but other portions are good land. This land adjoining Mr. Booth that belongs to the Railroad Company there, is in section 35, he does not remember how much is in that tract, it is in township 4 south, range 7 west. This railroad land in section 35 is high red soil, red shot land, good soil, if it was cleared off, the timber is rotten, the old big trees are rotting on the ground, it has a fine place for building, fine water as one ever saw, it lays out there, stock runs over it, some places it would not take anything hardly to clear it, other places it would

cost considerable to clear it. There is a big body of that tract that could be cultivated, but he does not know what it would be and it seems to him there must be fifty or seventy-five per cent of that tract there that could be cultivated and that land is worth, from an agricultural standpoint, \$20.00 an acre anyway. He sold land in there in section 33, a little piece for Mr. Booth, for \$20.00 an acre and it was higher and farther away than this land.

Whereupon on re-cross examination witness testified that he had not applied to purchase any of this railroad land under this act of Congress.

Q. There was a good deal of excitement after this agitation started about this Government suit, among people trying to get these quarter sections for \$2.50 an acre, wasn't there?

A. Yes, sir.

Q. Not so much in your section, where the land was agricultural, as in the timbered sections?

A. No, perhaps not.

Q. You knew that that was going on as to the timbered lands in other parts of the state?

A. Yes, sir, I understood it was.

Whereupon H. S. MALONEY, called as a witness on behalf of complainant being duly sworn testified that he is sixty-three years old, resides at McMinnville, Yamhill County, Oregon, and has lived in that county since 1877. He is now county recorder of that county

and has been such since July, 1908. He has had twenty years' experience in farming and surveying in that county. He owned farming lands in Yamhill County near Sheridan, which is in the valley. He has been more or less engaged in surveying work since 1878, land surveying principally, he has done some government work. Referring to "Defendants' Exhibit 259," he had been over the upper part of all these lands north of Sheridan and Willamina, surveying, that is, in townships 4 south, ranges 5 and 6 west and has some little knowledge of township 3 south, 6 west, and also has been in 4 south, 7 west and has been all over township 5 south, range 7 west. Township 3 south, range 6 west is up in the Meadow Lake section, Jones' mill, and is principally burned over land, there is some green timber, he is not very much acquainted there. He surveyed some near Meadow Lake, which is principally burned around there, that is in the big burn which has been mentioned in the testimony of Mr. Steward and Mr. Switzer and is in the same area. There are some sections in there which have green timber, and there is some green timber in section 8, township 3 south, range 6 west. Meadow Lake is in section 15 and his knowledge of that land in township 3 south, range 6 west is rather limited with reference to agriculture. He rather thinks it is too high an altitude though to be very profitable for agriculture. He does not know just what it is, he has never taken the altitude. It is high and mountainous and he does not believe it would be successful for agricultural purposes but principally for stock rais-

ing. There are some settlements in township 3 south, range 6 west. There is one that would be in section 23, township 3 south, range 6 west. He has surveyed some in section 23, which is in a burn, but there is a shingle camp there, there are considerable shingles, and he thinks probably that was why that was taken. There was no land in cultivation when he was there and south of section 23 it is nearly all green timber. In township 4 south, ranges 6 and 7 west he is acquainted. Township 4 south range 6 west, the line runs diagonally from the northeast to the southwest corner, the southeast part of that township is principally green timber and would be considered as agricultural at least forty to fifty per cent. of it, if it was cleared. In section 15, he knows there was some railroad land that has been considered good agricultural land, but it has never been cleared, it is known as the Horse Ranch up there, it is fine grazing. Township 4 south, range 7 west, with the exception of perhaps the south tier of sections, is mountainous and principally adapted for grazing. There are settlers in that township, around there in township 4 south range 7 west, nearly all that south tier. There is a man by the name of Wade who took a homestead up in section 22, who lived on it his time and proved up, it is in a little basin in the mountains there on what they call Bible Creek. On section 21 a man by the name of Bible took up a quarter section there, which was practically all level land. He did not take it as a homestead, he bought it under the timber and stone act and the principal value at that time was the cedar timber, down logs, all fallen

timber. It was not logged off but the cedar logs are valuable for posts and shingles, that is how he got it under the timber and stone act, but there were some little beaver dams along the creek that were valuable and the altitude is lower, snow does not lay there deep. The altitude is not very high in that country, not in that basin but there is some of that which is mountainous all around it, that is too high an altitude he thinks for agricultural purposes. He does not think that he ever took the altitude in that country, but it is something like 2,000 feet though he should estimate, to the higher ridges, something like that. There is more of the high elevation in township 3 south, range 6 west, than there is of any other kind, it is mostly high. Only the lower elevations of that land are adapted for fruit raising. Bald Mountain is in section 29, which is a very high point and can be seen from all over the valley. He presumes that the land in this vicinity, at an elevation of 2,000 feet, would produce grain and similar crops, although he has never seen it. Ordinarily 2,000 feet is not an elevation that would prevent the growth of grain hay, he does not think it would prevent it, if one had soil, he thinks it would grow. The character of the soil in township 3 south, range 6 west, the higher mountains, he thinks is coarse shot land, as it is called, and there is not very heavy timber on it, it is burned over now, the timber is small. There is first growth of timber on Bald Mountain, the old logs were there twenty years ago, something like that. It has scarcely a log over a foot in diameter, showing that it never had been very

large timber on these higher mountains, but the lower levels, of course are washed from the hills and that land is pretty good soil. The growth of the timber that is on there now is second growth in this burn, there is some timber on it. It is principally fir, young fir, but it is generally so thick that it never grows to any great size, it has grown so thick in there, it is more of an underbrush, it is not very difficult to remove, slash it off and burn it. The northern part of township 3 south, range 6 west, with which he is acquainted, is in that condition generally. The southern part has some green timber, heavy saw timber, old large fir, generally the size of the trees indicates the soil, and it is good timber. There is nothing that would prevent cultivating this land excepting the removal of the timber. These portions that are heavily timbered, take township 3 south, range 6 west, as a whole, the southern part of it, is pretty good, would be pretty good for agricultural purposes, but it is rather steep and broken. He has surveyed some in section 23, 15, 16 and 8 in township 3 south, range 6 west. He was there surveying for the Meadow Lake Club at one time, meandering or surveying their lands. Most of the lands were in the lake. Meadow Lake Club is the corporate name, it was a club house that was located there. At another time he surveyed some for a land holder in section 23 by the name of Frank Martin, he thinks. He has located a claim or two near the Bald Mountain as it is called in the south part of the township. As to settlers there on the even sections in this township, there are Williams Bros. and

a man by the name of Cobb who have taken claims in there on the burnt part of it and then the others have been taken as timber claims, the south part. The south part is timbered and he thinks the land was taken up mostly under the timber and stone act, some of it was taken as a homestead. He thinks Mr. Ivan Daniels took a homestead. These lands in township 3 south, range 6 west could be used for fruit purposes, those that are not too high an elevation he believes would be useful for fruit purposes. The elevation there would be mere guess work on his part, he is not an expert on those things, but on the top of Bald Mountain, the size of the growth of the timber where the logs are, rather indicates altitude. As a general rule, the foot hills are regarded as better land for fruit, on account of the drainage, but when one gets to the higher altitude, he does not know, he has never been engaged in the fruit business. He has a large orchard on his farm where he has lived for twenty years which was in the valley. He is acquainted with the lands in township 4 south, range 7 west, there are portions of that upon which he located settlers twenty-five years ago, in the west half of section 6 of that township on the Nestucca River, on a piece of bottom land, he presumes fifty or sixty acres of level land and it is not a very high altitude, and there were apples bearing at that time, that was in section 6 in this township a part of which was in the burn, it covers part of that burn. He is told that in the last year or two, every quarter section, in this township on the even sections, was taken up. This burn will in time become val-

uable by the undergrowth of young fir coming up now, but at the present time, it contains no merchantable timber, nothing unless it would be some of the flats where cedar logs are which are good for posts and shingles. It has been fifteen years since he was in township 4 south, range 7 west, and he has not been there since these settlers have gone in there and he knows nothing of the progress they have made, with reference to the land they have settled upon, except what he has gleaned from a paper that is published in Willamina, from a correspondent out among the settlers which he reads every week. It has been, he thinks, eight or ten years since he was in township 3 south, range 6 west, and he does not know whether the even sections there, such as were taken, have been settled on in that time. He is acquainted with a considerable portion of these lands in township 4 south, range 7 west, they are in this burn. From his personal knowledge, he could not say whether the even sections are settled in that township, but he understands that they are, every one of them. It has been, he thinks fifteen years since he was over in that township, he does not recall the time when he was in there. There is, as he has said, in that township, this basin where Mr. Bible has taken his claim and Mr. Wade has taken his claim. Bible got his claim under the timber and stone act and Wade homesteaded his as vacant land. They are not using that for farming purposes, but they are using it for grazing purposes. Bible bought his holdings and does not live over there, he rents it for grazing purposes. There is a high mountain just south of this basin. The

top of it, of course, is rocky and rough, but on the south slope of what is known as Springer mountain, there are some little pockets with wonderfully rich soil, but it has a great deal of rock, large rock. Some of these pockets are from one to two or three acres in there and some little cherry flats that are very fertile. It would be pretty much of a guess as to the true percentage of these lands with which he is acquainted, in township 4 south, range 6 west and 4 south, range 7 west, if divided into 160-acre tracts that would be suitable for settlement, that is, that enough plow land could be obtained to support a family, but there are very few of these quarter sections but what would have from five to twenty-five per cent of land that could be cultivated. In township 4 south, range 6 west, the southeast portion of it, some of them, were donation land claim taken in there. It would be mere guess work to say whether men have homesteaded and earned their support for themselves and families, on lands similarly situated, containing a similar amount of land in a 160-acre tract in this burned section in which the Railroad Company still owns some land. He does not know of but one settler in township 4 south, range 6 west. He believes he has made a very good living, he thinks, by raising strawberries on his land there and has peddled them out to McMinnville, that is, from his acquaintance of fifteen years ago, he has not been there for something like fifteen years. Mr. John Wortman of McMinnville owns a quarter section in section 8 and there are two or three other claims that are taken adjoining him there in section 4, but they were taken most-

ly for the timber, he thinks.

Whereupon witness testified:

Q. Mr. Maloney, how many acres of plow land, in your opinion, would be required to a 160-acre tract, taking into consideration the use of the remaining 160 acres for grazing or other agricultural purposes, how many acres do you think it would be necessary to have so a man could go on the land and earn a living from the soil there in this community?

A. Well, for those higher sections there, I don't believe a man, unless he has stock to utilize the grazing, could make a living on what land could be cultivated.

Q. Unless he had stock?

A. Yes.

Q. Well, utilizing it—if he would utilize the rest of the land for grazing purposes?

A. Well, it would be pretty hard to say."

Whereupon witness testified that he distinctly remembers some man calling upon him at his office in McMinnville, but he does not recall the date. The face of the gentleman sitting there (Mr. Laughlin) he has seen him before, he is the man who called on him there and witness executed some document in reference to the character of these lands after he had conversed with Mr. Laughlin.

Whereupon witness testified:

Q. I will ask you to examine this document, Mr.

Maloney, and state whether or not that is an affidavit that you executed before Mr. Laughlin, relating to these lands on the date that is stated in the jurat to the affidavit?

A. That is my signature, and as far as I can see, it was executed.

Q. What were the circumstances under which you signed that document, Mr. Maloney?

A. Well, in what way?

Q. Just state the circumstances,—how you came to execute that, any conversation leading up to the execution of it with Mr. Laughlin?

A. Yes, sir. I dictated to him, I presume, what is written there, in substance, at least.

Q. You read the statement over before you signed it, didn't you?

A. I did, or he read it to me. I don't remember which, of course, he—

Q. Now, Mr. Maloney—

Mr. Fenton: Of course he what?

A. Either I read it, or he read it to me, me looking on.

Mr. Fenton: I object to this as a manifest effort on the part of the United States to impeach its own witness, and to impeach a man who for 20 years has been one of the leading and substantial citizens of Yamhill County, who has been for eight years its County Sur-

veyor, and for four years its County Recorder, and for 20 years has had the respect and confidence of everybody in Yamhill County:

Mr. Rabb: The affidavit is not offered for the purpose of impeachment, but offered for the purpose of showing that the Government has been taken by surprise with the testimony of this witness, as reliance was made by the Government upon this statement made over the signature of Mr. Maloney, and has called him as a witness basing it upon that statement.

Mr. Fenton: Then the objection is further made that that is not a good reason for attempting to get into the record a statement made by this witness at the instance of the Government Inspector, upon a conversation that may have been loosely had in his office, and written out by the Government Inspector for the purpose of this case.

Q. Now, Mr. Maloney, in this affidavit, is it not stated that 'I, H. S. Maloney, a citizen of the United States, of legal age, residing at McMinnville, Oregon, where I am County Recorder of Yamhill County, being duly sworn, depose and say: I have lived in Yamhill County, Oregon, near the lands below mentioned, since the year 1877. For about 20 years of said time I lived on a farm, about half way between the towns of Sheridan and Willamina, Oregon, where I raised farm products. However, I hired most of the farm labor done, and spent most of my time in surveying near-by lands. During the remaining portion of the time since 1877, I was also engaged in surveying work, except since about

three years ago, when I became County Recorder. During said period from 1877 to 1908, I served as County Surveyor and Deputy County Surveyor for a number of years.

“I have surveyed lands in Township 2 South, Ranges 5 and 6 West; Township 3 South, Ranges 5, 6, 7 and 8 West; Township 4 South, Ranges 5, 6, 7 and 8 West; and Township 5 South, Range 7 West; and have as a consequence become familiar with the lands embraced therein. In some of these townships, I have made several surveys of section and quarter section lines and of particular tracts.

“The greater portion of the even numbered sections in the townships above described has been occupied by settlers for years; and the odd numbered sections will average just as good for purposes of settlement as the even numbered sections. I am confident that, should the said odd sections revert to the Government, and be thrown open to settlement and entry, at least ninety per cent of the quarter sections embraced therein would be taken up by settlers for home building purpose. I think that said quarter sections of 160 acres each will average at least 10 acres of tillable land per quarter section, and that most of the remainder of each such quarter section could be used to advantage for grazing purposes.

“Except on the high elevations, fruit of excellent quality and quantity can be raised on said cultivable lands.

“The odd numbered sections in the townships above

described have not been, and are not being now, settled upon, because it is generally understood among the people that said lands were withdrawn from sale by the Railroad Company a number of years ago, and that title from the Railroad Company cannot be secured. Consequently, I can give the names of no settlers on odd numbered sections who have made application to the Railroad Company to purchase and been refused.

H. S. MALONEY.

Subscribed and sworn to before me this 29th day of February, 1912, at the Court House in McMinnville, Oregon, the affiant having previously read same.

HARRY E. LAUGHLIN,
Special Agent."

That reading is correct of that statement, isn't it?

A. As far as I know it is, yes.

Whereupon complainant offered in evidence the document referred to in the questions to the witness marked "Government's Exhibit 123." Whereupon the same was received in evidence and is hereinbefore set out and described and made a part of this Statement of the Evidence and identified as "Government's Exhibit 123."

Whereupon witness testified in answer to interrogatories on behalf of defendants that the hand writing on the back of this document is in the hand writing of Mr. Laughlin and was made at the time.

Whereupon defendants offered said writing endorsed

on the back in evidence and the same was received in evidence as follows:

“Note. Mr. Maloney is engaged in a political campaign for re-election, and does not wish to be called as a witness till said campaign is over, unless it is absolutely necessary in the interests of justice.” Signed “Laughlin.” “Further Note. Mr. Maloney is a man of substantial character and definite opinions, and, in my opinion, would stand up well under cross examination. Accordingly, I believe he would make an excellent witness for the Government. Laughlin.”

Whereupon said witness was further interrogated and testified as follows:

Q. Mr. Maloney, at the time Mr. Laughlin called on you at your office, and you executed this affidavit, you went over township plats, did you not, which you had there in your office, before you executed the affidavit or expressed an opinion?

A. He had the township plat there, which was copies of the Government plats which I had, and we may have referred to the maps on file in the office.

Q. You used your own plats? You had plats there in your office?

A. Yes, sir, have had them there all the time.

Q. Which you looked at and examined prior to executing this affidavit?

A. Oh, yes.

Whereupon, on cross examination, witness testified

that township 2 south, ranges 3 and 4 west, is nearly all in the old settled part of Yamhill County, and he thinks that the east half of townships 2, 3, 5 and 6 are in the old settled part of that county, he is not sure. Township 5, ranges 6 and 7 west is in the old settled part of the county around Sheridan and Willamina. He does not own any place now near Willamina, the place where he farmed was on the William McClure donation land claim about midway between Sheridan and Willamina, in the old settled part of the county. The claim of John Wortman was in section 8, township 4 south, range 6 west. John Wortman is cashier and president of the First National Bank of McMinnville. He is a banker at McMinnville and is considered a capitalist in that county. He purchased that quarter section from McCormack, who took it as a homestead. He does not know what Wortman purchased it for, but presumes it was more for a summer resort than anything else. It has very little green timber on it, he does not think he bought it to make a home, he has a home and resides in McMinnville. A. S. Bible referred to by him is dead, he was a big cattle man in Yamhill county for a number of years, lived at Sheridan and pastured his cattle in the foothills and mountains back of Sheridan in these townships referred to by him. This memorandum on the back of Government's Exhibit 123 that speaks about his not desiring to be called in this case until after the election, unless it was absolutely necessary in the interests of justice, was his own suggestion made to Mr. Laughlin. He was running at that time for the office of County Re-

corder, his competitor was Dr. J. H. Nelson, Holt Nelson of McMinnville, an old pioneer popular young man of Yamhill County and a republican, and witness is running on the democratic ticket. That county is republican by 1600 and something, according to the registration. He was elected once before County Recorder and three or four times County Surveyor and always elected on the democratic ticket and was a candidate on the democratic ticket yesterday but does not know whether he is elected or not. He probably got a majority of all the votes around where people know him at Sheridan. He came from Tennessee to Yamhill County, was born in Tennessee and had lived in Yamhill County since 1877. He first came there in 1873, but did not permanently settle until 1877.

Whereupon, on re-direct examination, witness testified that the registration of Yamhill County showed 1600 republican majority, the registration he is speaking of, the republican registration was 2,545 and the democratic 993, these are the exact figures taken from the clerk's office yesterday. He has not talked one word to any of the attorneys for the Railroad Company, either the Southern Pacific Company or the Oregon and California Railroad Company about his testimony in this case. He has been acquainted with Mr. Fenton for a number of years and Mr. Frank W. Fenton is the local attorney at McMinnville. He has never mentioned the matter to Mr. Fenton or he to the witness or the witness to him.

Whereupon, on re-cross examination, witness testi-

fied that he never had had any conversation with Mr. Fenton about this case or about anything else since he came to Portland as a witness here, and he has never talked with F. W. Fenton at McMinnville about this case, directly or indirectly, never even mentioned it to either one. He talked a little here, since he came down with Mr. Foster, Mr. Steward and Mr. Switzer. Mr. Foster is one of the witnesses that is to be called in the case, referring to Harrison Foster, F. J. Steward and J. M. Switzer, who were subpoenaed and came with him from Yamhill County and who are his old acquaintances and are witnesses for complainant, all of them. He did not come with them, they came yesterday and he came this morning. He never talked over with them what his testimony should be. He did not come down with them yesterday and he had no conversation as to what their testimony would be at all. They were just simply trying to estimate a little of what per cent. That is a problem that they consider as mere guess work as to what per cent and that was the principal talk, that is to say, he and these gentlemen have since they came here talked with each other about what per cent they thought would be, or might be, agricultural, if the timber was taken off, but they have not talked with anyone representing either of the companies or any of these defendants in respect to what his testimony should be or was.

Whereupon H. SHELTON, called as a witness on behalf of complainant being duly sworn testified that he is sixty-nine years old and lives six miles above Scio in section 7, township 10 south, range 1 east in Linn Coun-

ty, Oregon, and has lived there all his life, pretty nearly. They emigrated to Oregon in 1847 and he has been living there and was raised on the place, it has been sixty-five years ago, he was four years old when he came there, that was his father's place, a donation land claim of 640 acres, and he has been engaged in farming as his occupation all his life. He raises hay, oats and wheat and some stock. In its original state his father's donation land claim was mostly bottom land, there was some little on the hill side, but not much. It was not timber, only there were oak grubs on it and since they had moved there, settled there, there is second growth timber on some of it, that is, what has not been cut off. He is acquainted with the territory east of Scio. He has been out east of Scio, say ten miles each way or more. He notices on "Defendants' Exhibit 259" that Thomas Creek is marked on this map and Crabtree Creek and Crabtree, the post office, the town of Crabtree, and also Latham, Larwood and Jordan are marked on this map. He is acquainted in section 19 of the unsold lands of the Railroad Company which is south from where he lives, in sections 19 and 29, he has been over them, these sections are in township 10 south, range 1 east. There is a portion of section 19 which a man bought some, and there is fruit growing on it. He bought forty acres there in the northeast part of section 19. Some of section 19 has a good deal of timber on it, and there is some of it kind of open glades. He thinks that probably seventy-five per cent could be plowed after the timber is removed or after the land is cleared. Section 29 in township 10

south, range 1 east, has 560 acres of railroad land and is better than section 19. He has a general acquaintance with these lands shown in green markings for ten miles from where he lives in section 7 in township 10 south, range 1 east. Thomas Creek goes through that section, and according to the markings of this map that would extend over into range 2, township 10 south, range 2 east. Section 29 is as far south as he has been. He has been quite a ways northeast up towards the Santiam river, towards the railroad, up towards the north fork of the Santiam River, up that way. He used to hunt quite a bit up in there and he is acquainted with the lands as far up as the north fork of the Santiam. He has been over the land hunting, sufficiently to give him a general knowledge of the lay of the land and the soil a good deal and of the timber growths, etc. Some of it is suitable for farming and some of it has mostly timber on it. He would think there would be seventy-five per cent of this area with which he is acquainted, containing the railroad lands, take it all over so far as he has been over it and examined it and hunted over it, that could be cultivated, if it is cleared. He does not know if that percentage generally would be carried out as to each 160-acre tract. If it was divided into 160-acre tracts, it would not, hardly on all of it, some of it there is rocky and steep and it could not be cultivated. It is pretty good for grazing, there have been a good many who had stock there that run on the mountains there all the year round, here in the early days, but now days they do not allow them to run out. Speaking generally of all the townships, if the

land were divided into 160-acre tracts there would be, generally, this percentage of plow land in each 160-acre tract. There would be sections perhaps that none of the land could be plowed. The lands are generally timbered in this country. Some places there are kind of open glades in it where there is no timber and then there are others that have thick heavy timber.

Whereupon, on cross examination, witness testified that his father's donation land claim was in sections 6 and 7, and where witness lives was in section 7. He lives on the Hammond Shelton donation land claim, part of his father's place. His father settled there in 1847, crossed the plains and he has lived there from his boyhood, from the time he was four years old up to the present time and has seen that country grow and develop and the lands settle and change hands. These unsold railroad lands that he has hunted over he supposes that for twenty years after 1866 they had no real value, not particularly.

Whereupon witness testified:

Q. When did they begin to have a value, as you remember it? About how long ago and for what purpose did they have a value? What first started the inquiry among them?

A. Well, it was for the timber.

Q. When did that first arise?

A. Well, that has been about, let's see, that must have been about ten years ago.

Q. Before that, these lands were hardly worth paying taxes on, were they?

A. No. They didn't value them anything. You see they were just in the woods that away.

Q. In the mountains, like?

A. In the mountains, yes.

Q. And away from any settlements?

A. Yes, it was away from the settlement.

Q. And are they not pretty rough?

A. Well, some of them is tolerably rough and some aint.

Q. They are mainly covered with reasonably good saw timber?

A. Yes. Yes.

Q. And that in the last ten years has had a market value?

A. Yes.

Q. There have been some homesteads up in that country taken for the timber, on the even sections, haven't there?

A. Yes.

Q. And those homesteads after they were taken and proved up, have been sold to timber people?

A. Yes, sir.

Q. They are chiefly valuable, then, for the timber that is on them?

A. Well, at the present time, but if the timber was off, why, they would be fairly good for some——

Q. They could be plowed?

A. Yes, some of them, yes.

Q. But the chief value at the present time is for their timber?

A. Yes, at the present.

Q. And has been for the last ten years?

A. Yes.

Q. Do you know what a good quarter section of timber up in that vicinity can be sold for now, about?

A. Well, I don't know what they could be sold at now. There is one of my neighbors there had a quarter section up there, and he got \$5,000 for it.

Q. Was that a homestead?

A. Well, he took it up as a homestead, and then he commuted on it, and paid out in 14 months.

Q. He never lived on it, then?

A. Well, he stayed there awhile on it.

Q. Just stayed a night or two?

A. Yes. Yes.

Q. And then commuted and got a patent?

A. Yes.

Q. And then as soon as he got the patent, why, he sold it to the timber people?

A. Yes, sir.

Q. Was that done pretty generally around there to get these timber lands?

A. Well, I think that was about the way.

Q. The way it was done?

A. Yes, I think so, to the best of my knowledge.

Whereupon on re-direct examination witness testified as follows: "Q. Well, Mr. Shelton, this man that you spoke of, that commuted on this claim never cultivated or really established or maintained a home out there? A. Well, he put out some trees out there, some fruit trees and planted some potatoes." His name was Frost and there was some more who took claims the same time right in the same locality. He does not know whether they made nothing more than a pretense of complying with the law, he could not tell about that part of it now, they left their homesteads as soon as they had commuted and sold their claims. The land is chiefly valuable for its timber in its present condition with the timber standing. The timber would have to be removed in order to plow the land, that is the way. The land, of course, without removing the timber would be of no use for tillage. There is hazel brush and cherry and such as that in these open places. These areas could be cleared at very small cost compared to what the timber lands would cost, it would be cheaper. It is a fact that the lands in this community have been largely taken and are owned under this grant and by the Northern Pacific

Railroad Company which filed scrip on a large portion of the even numbered sections, before the survey was made, there was quite a bit of that. The homesteaders in that area were comparatively few, there were not so very many.

Whereupon, on re-cross examination, witness testified that he rather thinks it would cost more to clear this timber land and put it in cultivation than it would to go down in the valley and buy cleared land. Whereupon, on re-direct examination, witness testified that if a man had little means he could not get land in the valley for \$2.50 an acre. As a poor man's proposition the valley lands would have to be excluded.

Whereupon W. H. YOUNG, called as a witness on behalf of complainant, testified that he is forty-seven years old, resides about three-quarters of a mile below Scio in Linn County, Oregon, and has lived in that county about thirty-two years. He is a farmer and has been engaged in that business upwards of twenty years, and always in Linn County. His farm is in township 10 south, range 1 west, and is part of section 18. He had another place of forty acres right below that which he farmed, in township 10 south, range 2 west. He was engaged in the cultivation of land there, he grubbed out some, it was nothing but a stump patch and tree, and he got that up, and put it into oats, that was the first place that he was on. There is eighty-five acres on the place that he has now, bottom land, and the other land was about twenty-five acres on the bottom and fifteen acres on the hill. That bottom land

that he farms now did not contain any growth of timber, that has been under cultivation a good many years, it was the old donation land claim of George Thomas. He has about forty acres in cultivation where he lives now, and he is making his living from this land which he is farming. He is a married man but has no children, he has had a boy with him whom he took to raise, he has had him for about ten or fifteen years. He is acquainted with farming conditions generally in Linn County. Referring to "Defendants' Exhibit 259," at Crabtree Creek, pointing to the section above Larwood, is where they go into the mountain. He is acquainted right in about Thomas Creek, which is on the eastern place limits of the grant as shown by this map, the twenty mile limit. He is acquainted with the lands west of there, and between Thomas Creek and Crabtree, between those two creeks in there. He is acquainted in through that area between Thomas Creek and Crabtree Creek, west of the line, the twenty-mile limit marked on this plat. He went over that territory for the purpose of hunting. He has been in township 10 south, range 1 east, south of Jordan, a branch of Thomas Creek runs down there through that country. He is acquainted with the formation of this entire area between Crabtree and Thomas Creeks and the east line of the place limits, and the general formation there and the growths that are there. He would think, that between 65 and 75 per cent of that land could be rendered suitable to cultivation by removing such growth as is on it, clearing the land. This territory is not all of it

covered with timber. Some of it is heavy timber, and some is in the deadenings, and some is vine maple flats. When he first started in there in hunting in this area, he supposes it has been over twenty-five years ago and this is the first year he has missed hunting there for fifteen or eighteen years, he has covered that entire ground there.

Whereupon, upon cross-examination, witness testified that the place that he owns there is a part of the donation land claim of George Thomas, who settled on Thomas Creek, but he does not know whether the creek is named after him. His place is west of Scio a half or three-quarters of a mile. The way they have to go to these timber lands, up Crabtree Creek from Scio, where he has hunted over them, takes them till they get to their camp, twenty-five miles, the way they travel by the trails. It would be a little less on a straight line, but to their camp where they hunt, that is up in the mountains. That country is pretty well timbered, in the main. He has been up Thomas Creek from Scio something over thirty miles or more, and that is in the timbered country. This little place on this map referred to is called Larwood. That is not the beginning of the mountains. The mountain starts about a mile or two miles from Larwood where they started, and these mountains do not get pretty steep after that, but just a kind of gradual grade down there—benches. He thinks the survey for their camp is about eighteen hundred feet high. This land up in there is covered pretty well with saw timber, as a class. He has lived there

in the vicinity of Scio for about thirty-two years. The unsold lands of the railroad company for the first twenty years after 1866 down to 1886, or about 1890, were considered worth two dollars and a half an acre, what they were figuring it on. They were not counted worth very much. It is only in the last eight or ten years, since the land became valuable for timber, that these lands have been looking up and had a market value.

Q. Do you remember about when timber first became to be an object and people would go out and get claims under the Timber and Stone Act, and go out and get homesteads in those mountains east of Scio? About when was that?

A. I don't think it is over ten or twelve years ago.

Q. A good many people went out there and took homesteads and got their title, and sold to timber people, didn't they?

A. Yes, sir.

Q. And a good many people took up quarter sections under the Timber and Stone Act where they did not have to live on it at all?

A. Yes, sir.

Q. And then they have sold that to timber people?

A. Yes, sir.

Q. And the same kind of land as these railroad lands, only they are a little better?

A. Well, I don't know. It is just about a stand-

off between them.

Q. About the same. Well, then, these railroad lands as they go down towards the foothills, have been on the market until the last seven or eight years? They were on the market as far back as you recollect nearly, haven't they been?

A. Well, I don't know anything about that. I never thought much about that.

Q. If there were any railroad lands down around Scio, and in that section of country, little fractions here and there, they have long since been bought up by farmers, haven't they?

A. Yes, all I know of them.

Q. Now, this map shows that there are no railroad lands near Scio until you get about four miles east of Scio, then there are small fractions that the company still appears to own, between Crabtree and Thomas Creek. Is that because it was hill land or timbered land that was not taken under the Donation Law or how did that happen?

A. I couldn't say how that would happen.

Whereupon witness testified that most of the land around Scio proper was taken under the donation land claim law, and that is one of the oldest parts of Linn County, they settled part of the forks of the Santiam. He never took a homestead up there. His only knowledge of these unsold railroad lands there in the mountains, is, that he has hunted over them about once a year

ever since he has been big enough to go hunting, and that is the way he got the knowledge that he has of these lands, by going over them as a hunter. He has hunted, he has made as high as five trips in the mountains, getting deer, elk very seldom. That country up there is not a wild country. He has had deer right down two years ago, right close to a few miles of his home. In the summer time, in August, the deer come down sometimes and follow the streams, but that is unusual in late years. This timber land up there is a long ways from the Three Sisters. He could not say how far from Mt. Jefferson, which is a snow peak in the Cascade Range and is nearer than the Three Sisters. Mt. Jefferson is on the headwaters of the McKenzie, the Three Sisters are further south.

Whereupon, upon re-direct examination, witness testified that Mt. Jefferson is about thirty miles on an air line from the western boundary of the indemnity limits of this grant, and would be about forty or fifty miles from any of this land at least. That is what they always count, between fifty and sixty miles, that is the way they always guessed it in the mountains, from the summit where their cabin is on the mountains. It is a fact that the greater portions of the even numbered sections in this area were taken by the Northern Pacific Railroad Company scrip prior to survey, and there were comparatively few homesteads ever filed in this timbered country. The settlers, as they came into this country, settled first on the creeks and river bottoms, and the settlers as they have come into the country have pushed

back into the foothills and the mountains. In the last fifteen or twenty years the demand for lands for settlement and homestead purposes, has increased in that community. They have men in their country they cannot rent a farm for. Farmers themselves have to sell their stock for they cannot get lands to run the stock on. The lands in this area, in the even numbered sections, have been taken up practically since survey largely by scrip locations, and that has prevented settlement on the even numbered sections by persons seeking to farm to obtain farming lands.

Q. What has been the effect of the railroad company's failure to fulfill the conditions of this grant, and sell the land to actual settlers in 160 acre tracts at \$2.50 an acre? What has been the effect in that community, in your opinion?

A. What effect has that had?

Q. Yes.

A. Well, it has had the effect to keep people to taking a homestead.

Q. Has it retarded the settlement of lands?

A. Well, yes.

Whereupon, upon re-cross examination, witness testified that he does not know why the people did not buy these lands at two dollars and a half an acre twenty years ago. Sometimes a man is so that he has not got means to buy them. He never gave it a thought as to whether these timber lands twenty years ago were worth

anything, he knows that the whole timbered country up there twenty years ago was considered waste land, and in some parts of that timbered land it would cost more to clear the land than one can buy valley land for.

Whereupon, upon re-direct examination, witness testified that a man of small means would have some difficulty in buying valley land at two dollars and a half an acre, and especially in their country. It is a fact that other lands, other than timber lands, were open to homestead entry twenty years ago, and people were not forced into the timber sections, and that is the reason they did not take that land. He has never known of the railroad company offering any of this land in this area at two dollars and a half an acre.

Whereupon, upon re-cross examination, witness testified that he never tried to buy any of it at two dollars and a half an acre, but he had a friend who did try it, in the last four or five years, under that act.

Q. He wanted to buy a good timber quarter, didn't he?

A. I couldn't tell you what he wanted to buy. He said he tendered the money, and they wouldn't take it. That is all.

Whereupon witness testified that his friend did not tell him where this quarter section was, but it had to be up in the timber, there was no other, it had to be up in the timber.

RE-DIRECT EXAMINATION.

Q. The land wouldn't necessarily be valuable timber land that a man would take in this area, Mr. Young?

A. Well, the way it is standing, it would be more valuable for the timber, if you take the timber off.

Q. You would have to clear the land before you could cultivate it?

A. You would have to clear the land before you could cultivate it, yes.

Q. Well, this friend didn't get the land?

A. No, sir.

Whereupon N. I. MORRISON, called as a witness on behalf of complainant, being duly sworn, testified that he is fifty years old, and resides in Scio, Linn County, Oregon, and has resided in Linn County about twenty years. He had been engaged in farming to a considerable extent in Linn County, in section 24, township 10 south, range 1 east, where he owns land. He is not now engaged in farming, but left his farm four years ago next February. He had a homestead there of one hundred and sixty acres which he had taken up and upon which he had lived thirteen years. The land was brush and timber when he took it up. He was a man of family when he took his homestead, and his family resided with him on the homestead during his residence there, and he earned a living for himself and family from the homestead. He had about fifteen acres under plow, and a few acres cleared up ready for plow,

and an orchard set out that had never been plowed. He raised mostly grain hay, oat hay, and raised no wheat—nothing except what he raised mixed, oats and wheat mixed, for hay, he never saw anything better than he raised there, he raised vetch and things of that kind. He raised 26½ big loads of vetch and oats off of four and a half acres. That is very productive soil and he raised all kinds of vegetables, potatoes, beets, cabbage and squashes, everything. That soil produces good vegetables. Referring to “Defendants’ Exhibit 259,” he is acquainted with all of township 10 south, range 1 east, township 10 south, ranges 2 and 3 east, and the north half of township 11 south, ranges 1, 2 and 3 east. His homestead was located in section 24, township 10 south, range 1 east, on the east side, next to the township line, between ranges 1 and 2 east. There are railroad lands on all sides of him and those lands were better than his homestead, that is, he means for agricultural purpose or homestead purposes. He has run lines in this area with which he is acquainted, and in trying to help people find land in there, and has hunted over practically all of it, packed in there for cruisers—all over it—packed three months, every day, at one stretch, and is thoroughly familiar with the land and its formations and soil conditions. In his opinion, from his experience in farming in this vicinity, he would think probably in the neighborhood of 70 to 75 per cent of that land could be rendered suitable for cultivation after clearing the land of any timber or brush that might be upon it. These lands would average the same if divided into one hun-

dred and sixty acre tracts, that is, that percentage of plow lands would hold good as to each hundred and sixty acre tract. He knows some railroad sections that nearly every foot of it could be plowed. There is section 31, township 10 south, range 3 east—the railroad company does not own that now, that was sold to Green & Avery Timber Company. The railroad company has sold large areas of land there to big companies.

Q. Mr. Morrison, from your experience as a homesteader, what would you say as to the suitability of these railroad lands for homesteading purposes, that is, going on it and taking up a homestead, and living on it, making a living on it, as you have done on your homestead?

A. I would not be afraid to tackle it on pretty near any of them. Of course, some would make a failure of it probably anywhere.

Q. In your opinion, Mr. Morrison, what has been the effect of the failure of the railroad company to sell this land to actual settlers at \$2.50 an acre in 160 acre tracts, that is, the effect upon the community there.

Mr. Fenton: I object to that as assuming that the company has failed to comply with the terms of the grant in any particular, and as incompetent.

A. Well, it retarded the settlement. I know of parties that wanted to get land that did not have any timber on it, for to make a home out of—land adjoining me, and they would not sell it, would not put a price on it.

Mr. Fenton: That is recently?

A. That was seven or eight years ago.

Q. The lands, then, are not all covered with timber?

A. No, not all of it.

Q. This party that you spoke of, they wanted that for agricultural purposes?

A. Yes, sir.

Q. And the railroad company refused to sell to to them?

A. Yes, sir. The party lives here in Portland.

Q. Did they make a tender, do you know, to the company?

A. No, no. They just wrote to them and wanted to know what the price was, and they wrote back and told them that it was out of the market.

Whereupon, upon cross-examination, witness testified that the transaction last referred to was about seven or eight years ago. His homestead is in section 24, township 10 south, range 1 east, and about twelve or thirteen miles from Scio. He is on a fork of Thomas Creek called Blue Creek, about five miles from the mouth of Blue Creek. He kept stock on this homestead and used the grain, vetch and oat hay that he raised to feed his stock. When he first started in, he had only one cow, but he got into the stock business, more or less, as he could get it, got stock, goats, sheep and cattle. He enclosed all of his homestead excepting about a quarter

of a mile on one side of it, which he left open, that was back on section 19, a piece of railroad land, range, and he left that so his stock could range out over the railroad lands as far as they wanted to. He never had as many as forty or fifty head of cattle during the time he was there. He had about eighteen or twenty head, he thinks that was the most cattle that he had. He sold some each year after he got started. He could not tell exactly the most money he received in one year for sales of his beef cattle or calves. Probably the most cattle he sold at any one time was about one hundred and ninety dollars' worth, he probably sold more than that in one year. He only raised hogs, enough for his own use. He kept about ninety head of goats, and confined them to a particular pasture. The goats could run anywhere on the west half of his place, they would not go out through this opening, this quarter-mile back, there was a fence across there, he had it fenced through the center. He had 90 or 100 acres pasture, and probably five acres of this ninety or a hundred acres cleared up, ready for the plow, but it was never plowed, and probably 15 acres under plow in the whole quarter section. He still owns his place. There is saw timber there on his place, about two million feet, worth from seventy-five cents to a dollar a thousand. The majority of this railroad land that he had been over, that he had hunted over, and through which he had made some surveys, and into which he had packed for cruisers' supplies, is pretty well covered with saw timber. These cruisers were not cruisers of these mill companies or railroad cruisers, they

were just timber cruisers or companies that made a business of cruising tracts of land in order to find out how much timber certain landholders had in order to sell it to other buyers. He was not engaged in the business of locating people on timber lands in that section, not actually in the business. He helped them to locate, showed them places and the like of that, but he never asked anything for it. He helped people who wanted to find a timber quarter, helped them to locate and find the quarter. The demand for these timber lands became rather active about ten years ago, something like that. For many years before that, these timber lands were not sought after very much.

Q. Don't you know that for twenty years after 1870, say down to 1890, these timber lands of the railroad company and these unsold lands were practically valueless so far as any demand was concerned? Don't you know that to be a fact?

A. Well, yes, but then if I had had money, I would have been pretty apt to have bought some of it.

Q. Yes, you would have bought on anticipating that you could sell it, if you could buy it, at, say \$2.50 an acre, you could have let it lie there until it became worth something?

A. I wanted to buy, did buy some railroad land. I wanted to buy more and they would not sell it.

He bought railroad land in sections 25 and 13, township 10 south, range 1 east, forty acres in each one of

them. He contracted for forty acres in section 25 in 1901 and paid two dollars and a half an acre for it. He bought a contract for the other forty in section 25, that was all. He wanted to get some more land next to that in section 19, and in 25, and they would not sell it to him, and he knew a party who had a contract on a piece of railroad land in section 13, and he bought his contract and paid four dollars and a half an acre. This man contracted it about the same time that he did, about eleven years ago, about 1901. The land that he bought for two dollars and a half an acre did not have any timber on it, it was covered with brush, vine maple mostly, but the soil was A No. 1. It was adjoining him, and that was the reason that he wanted it. The other tract had timber on it, probably about 800,000 feet, that is, on the forty acres. He sold that and got \$1150 for it. He sold it partly to timber people, that is they hold a little timber there adjoining it. It was sold for the timber, that is what they bought it for, he expects.

Q. Now, as a matter of fact, Mr. Morrison, whatever homesteads were taken up in that timbered country within the last eight or ten years have been chiefly taken on timber quarters, haven't they?

A. Not all of it.

Q. I know, but the main ones have been taken, the best timber quarters that they could find?

A. Well, there is a good many homesteads taken in there, or several of them, not a good many that I advised them to go back and take a piece of timber land,

but they said they had been raised there all their life, and they did not think it would ever be worth anything, and so they took up a piece of brush land in preference to the timber.

Q. You advised them to take the timber?

A. Yes, sir.

Q. Under the Homestead Act, you thought that would be worth more money?

A. Well, I knew it would.

He knows of a section of timber land in that country for which they have refused sixty thousand dollars, that is section 28, township 10 south, range 2 east. It was to be practically a cash purchase, he cannot tell who owns it now. It was not taken under the Timber and Stone Act. He does not know the people, they were people that just came in there and took it for the timber, and it is still in the hands of the first takers, he is not positive though, but thinks it is. That section has never been cruised by timber cruisers, but it has probably sixty million feet on it, some of it is fir and some hemlock, this piece of land, that timber section, is about eighteen miles, something like that, east of Scio. Land around Scio—five or six miles from Scio—open land, is being sold in that old settled part of the country, without improvements, farming land, at one hundred dollars an acre. Nothing that is tillable, within five or six miles of Scio, can be bought for fifty dollars an acre. To buy any cleared land within five or six miles away from Scio, away from the influence of the town and in

the country, one would have to pay as much as a hundred dollars an acre, or if one gets out fifteen miles east of Scio, he would have to pay one hundred dollars an acre, and down towards Albany Prairie, down in that direction, it is worth probably more than that down there. Land has been going up for several years, kept going up. He knew of people applying to purchase these timber lands up there from the railroad company under this Act of Congress, and offering to pay two dollars and a half an acre, on these printed blanks that were circulated through the country there about five or six years ago. He does not know whether there were any parties from Scio or not who did this. There were a good many of these people who were strangers to him. They came there and put up a notice on a piece of his land, wanted to build a cabin there, on a piece of railroad land that he bought, and he told them that he guessed not, it was not a piece of timber land that he had bought, there was no timber on it, they put up a notice on it, and they put up a notice on a quarter section that he had applied for, they didn't build any cabin on there. The railroad company told them, as he understood it, that they would not allow them to build there, told them if they built there they would have them arrested for trespass and for malicious destruction of property, or something like that. He was not going to allow them to build a cabin and go into possession of his land if he could help it. Aside from that particular instance, these notices were posted all through that timbered country on these quarter sections. Some parties went in there and started

cabins, and then they served notice on them not to cut any more timber, not to cut anything to build their cabins out of. He does not know as there were dozens of these people, but there were a few there that he saw personally, and they claimed they were going on there, but they did not. They posted their notices just the same. Some of the places where these notices were posted had good timber, and some of them not so good, and some of them had no timber on. It would be a pretty hard matter to find a quarter but what had a little timber on anyway. It is a timbered country. These people found out what quarter section to get—there were locators that located them around just the same as they did on the government land, etc. People did not know where the section lines were, or section corners, or anything, and they would hire someone to go and show them where a certain piece of land was, and they would pay the locators a fee for that service. He thinks the highest he remembers they had to pay was about twenty-five dollars. He never heard of their paying as much as two hundred dollars if a man found a good timber quarter. They might have done so in some other localities—he does not know anything about it—but what they located in there, the parties charged them twenty-five dollars. One of these locators lived around Scio, but did not make a business of it. He made a business out there for a while, a short time. He knows of a lot of these lands being taken up under the Timber and Stone Act. These lands would be pretty good lands if the timber was off, but they were timber

lands. These people that took these lands under the Timber and Stone Act did not go out there and make farms of them, he has an idea that a good many of them never saw the land. He supposes that after they got the patents they sold the land to the timber companies probably, a good many of them. He knows that most of that land has gone into the hands of timber companies, and he does not know of any one tract any larger than that big section that is in the original hands, he knows of several smaller tracts that are owned by the original owners under the Timber and Stone Act.

Whereupon, upon re-direct examination, witness testified that it is a fact that a good deal of the even sections were located there by Northern Pacific scrip, which could be filed on unsurveyed land, in townships 11 and 12, ranges 2 and 3 east. The Northern Pacific company would scrip the even sections, and the Oregon & California Railroad Company owned the odd sections, so there wasn't very much room for either the homesteader or the Timber and Stone entryman. The land around that \$60,000 section of which he spoke is all about the same right in there for several sections, that is in township 10 south, range 2 east. The timber there is far above the average of this general area. There are two or three sections in there where there is not very much difference, but then take the surrounding country, it is probably a little above the average right in that locality, in township 10 south, range 2 east, and as one gets down towards the valley, the timber is less. Practically all of the government lands have been taken

up in this country, and if a man desired to obtain land for homestead purposes, the last ten or fifteen years, he was compelled to go into the timbered area, like he was, to get a homestead.

Whereupon C. E. CLARK, called as a witness on behalf of complainant being duly sworn testified that he lives in section 21, township 11 south, range 1 east and has lived in that section ever since 1872. His father came there when he was a boy. His father formerly lived in the State of California and moved north into that country. Witness was one of thirteen children. His father had formerly been a farmer in California and came to Oregon in 1872 and brought him along with the family. He settled just below that land, bought about 215 acres, his old place, from a man by the name of Peter Zell where he lived. He did not die there on that place but he died about four years ago on the place where they are living. He lived there all this time. He and his father were ranching and sawmilling. His father got an old sawmill with the place when he bought it and they ran that. The sawmill was on the old place that his father bought. It was rather a small sawmill. There are different qualities of soil there. The upland is of a reddish cast, the bottom land is rich, some of it sandy loam, some of it black soil. One can raise anything planted and this applies to both kinds of soil. It is not very rough in there, just a gradual slope from the creek. He is forty-nine years old and has had no business experience excepting as a farmer, nothing any more than sawmilling there. He thinks that the soil is first-class.

They raise good fruit, good peaches. He has raised sugar corn and all such stuff as that, everything they plant there grows well. The soil is an average depth, he does not know that he could tell just exactly the depth of it. There is quite a bit of timber in that country there. The timber on their place they cut it, sawed it up into lumber, most of it. There is some little timber there yet. He thinks timber grows on good soil, it would not grow big on poor soil. Nothing has been logged off there in that country except what they had on their own lands. There has nothing been cut off the railroad lands back there. They sawed the saw timber out and the balance of what they had cleared up they rolled the timber together and burned and put the land into cultivation. He has about fifteen acres on his place that is under the plow and probably that much ready to plow that is not broke up yet. They had a home market there for their lumber from people living near by. He does not know as he could tell by the sections what area his knowledge extends to, but he is well acquainted with that country between Crabtree and Thomas Creeks and on both sides of Crabtree, some places over as far as the Santiam, and he supposes the area of a couple of townships. He has been all over that country, has seen the different farmers there using the soil and what they raise on it and that extends to townships 11 and 12, ranges 1 and 2 east. Crabtree runs right through townships 11 and 12. Crabtree Creek is northeast of Lacombe. He thinks that these unsold railroad lands involved in this suit are susceptible

to use by the settler. A man could go in and subject it to settlement and make a home of it and they would have been sold years ago if they had not taken them out of the market. He knows the railroad lands, knows it all, knows the sections as they come that way but could not call to mind just their lines and knows the areas and the character of the land. Fruits of all kinds grow well on that land, also vegetables of all kinds, wheat and oats and they raise nice kale, corn, cabbage and anything pretty nearly that one plants on it will grow. He never has tried sweet potatoes, but he believes he has ground that will grow them. He put out 130 peach trees there last spring and they are as fine a growth as he ever saw. Everybody that has looked at them say they are nice. Out of the 130 he only lost two trees. The railroad company will not sell its land in that vicinity, they do not sell it, the effect of that is to stop the immigration in there and the settlement. They do not have as good schools in there as they would if it was all settled up thickly, if it was all into homes, people all living there they would have plenty of children to have good schools and would have better roads.

Whereupon witness testified:

Q. What I want to ask you is, as a practical settler in that country yourself, whether the method that has been pursued by the railroad company has promoted or retarded the settlement and development of that country?

A. Why, certainly it has. I think that land would

have all been sold to settlers if they could have bought it. It would all have been settled up.

Q. Do you know of any reason why the railroad company could not have disposed of that land to settlers?

A. No. I don't know why they took it out of the market.

Q. Is it good land for settlement?

A. I think so. We have lands settled up there just like it, and some of it has been bought from the railroad.

Q. I asked you once before whether it was rough land or not, but in order to make your testimony definite, I will ask you what proportion of the land in that vicinity with which you are acquainted could be plowed, cultivated.

A. That is, after the timber is all off it?

Q. Yes.

A. Oh, you take the majority of it—of course, there are some sections, probably would be, where there were rough bluffs, or something like that, that could not be plowed, but then a majority of land up there—oh, I would say 40 to 60 per cent of it could be all plowed. There might be some hillside might be a little steep, but they have got to be pretty steep if they don't use them for something on a ranch.

Q. How is it as to that land? Is the general con-

dition of climate and moisture favorable or unfavorable?

A. O, I think it is favorable. We never had to irrigate there. Now, I have a brother-in-law from Pendleton down, he was there last year, and the year before both, and he told me I ought to irrigate, I had such a good chance there. I told him I didn't think we needed it. He was out one day right in the middle of the summer, scratched down, he said, three-quarters of an inch, and found we would get the moisture. He said we didn't need the irrigation. But then it might be good, for all I know, to irrigate.

Q. That is the usual experience that settlers always have, that somebody that doesn't know anything about it will generally give advice, isn't it, Mr. Clark?

A. Yes. In their country they have to irrigate, and here we don't. And we most generally have to have a drain somewhere to get rid of that moisture.

Q. Well, now, Mr. Clark, I will ask you one more general question, and that is this: some witnesses for the railroad company have testified that in their judgment, none of these railroad lands that are unsold and are involved in this suit, can be used for the purpose of settlement and making homes, cultivating, sustaining a settler and his family who lives on the lands. Now, without asking you to in any way reflect upon the judgment of those men, I will ask you whether you agree with them or not?

A. No, sir. I think we have got lands up there

that is far better lands than between here and home—between here and Albany. It is better land than some you are selling along here for \$400 and \$500 an acre. It is in the railroad hands, and they don't use it themselves, nor they don't allow anybody else to.

Q. How does that land compare with the lands in the valley?

A. Well I am speaking about this valley land along here. I was up here to Fairview, along up there, and they said there were lands there you couldn't buy for \$400 or \$500 an acre.

Mr. Fenton: Fairview, east of town here?

A. Yes, east of town. Those little hills along there, we have better lands up there that is not in use at all.

Q. Where do you live now?

A. I live up on the same place in Linn County.

Q. The same place we have been speaking about?

A. Yes, sir.

Q. Is it a nice pleasant home?

A. We think so.

Q. You are not looking for a trade of homes?

A. No, sir?

Q. Are there other just as good homes there?

A. I think so.

Q. In these railroad lands?

A. Yes, I think so.

Whereupon, on cross-examination, witness testified that he took a homestead in section 22, township 11 south, range 2 east about six miles from where he now lives and he must have taken that ten or twelve years ago, and lived on it during the time that he proved up. He lived on it fourteen months and then commuted. He took his family on to that place.

Whereupon witness testified:

Q. Did you stay there continuously, or did you go away to work afterwards?

A. Oh, I had to make a living. We got broke up in the mill business, and I just took up a homestead there to get a little start again.

Q. How long did you take your family and live practically on the homestead?

A. Oh, I could not tell as to that.

Q. Well, you built a cabin on it, did you?

A. Yes.

Q. And did you go up there in the summer time?

A. We had a cabin there for ourselves, and we had a cabin for our horses, an outbuilding.

Q. How much did you clear on that homestead?

A. Oh, we just put in a little garden.

Q. How much garden did you put in?

A. Oh, I don't know.

Q. About as big as this room?

A. Just about as big as this room. And then we set out some fruit trees there.

Q. How many fruit trees did you set out?

A. Oh, there must have been a dozen or such a matter.

Q. Apple trees, I suppose?

A. Apple trees and plums.

Q. Did you fence the improvements?

A. Yes, sir.

Q. Now, are those improvements occupied now?

A. No, sir, I don't think so.

Q. And the trees have gone to waste, have they?

A. Oh, yes. Brush grew up around them, and smothered them out.

Q. Did you sell the claim?

A. Yes, sir.

Q. When did you sell it with reference to the time you got your patent?

A. Well, I don't remember. It was quite awhile after.

Q. Whom did you sell to?

A. Wright, Blodgett & Company.

Q. That is a big timber concern in Michigan?

A. Yes, sir.

Q. What did you get for your quarter section, if

it is a fair question.

A. \$2,000.

Q. What did you pay to enter it—\$2.50 or \$1.25?

A. \$2.50.

Q. You got 160 acres, did you?

A. Yes, sir.

Whereupon witness testified that he did not own his present place during the time he was taking his homestead, he did not own any land during that time. He then went back to the old sawmill place and bought this place here. His father's place was turned over to an assignee and he bought it at an assignee's sale. He has about fifteen acres on this place in section 21, township 11 south, range 1 east, under the plow and about that much ready to plow, that was the place that he bought in at an assignee's sale, it was a place that his father never owned, his father owned the place just below. His father did not take his place up as a homestead, that place just below, but bought it from a man by the name of Zell. It was the Joseph Elkins claim, he thinks it was a homestead. He thinks there was only 160 acres, but did not think they took donation claims under that. Elkins put up a mill there, a little mill for someone, and the man went off to the mines and was gone three years and he thought he would not get his pay so Elkins jumped his claim and took it. He could not tell how long that Zell land had been settled, it had been settled and sold a good many times before witness came to the

country. He supposes that place is ten miles from Scio southeast and nine miles from Crabtree. When he first came there, Scio was the nearest post office, but there is a little town right close called Lacombe, two and a half miles away. It is just a small place, about three stores, just a few residences. Other people went up into the foothills and mountains and took homesteads in these timbered areas in the even sections besides himself. Some of these homesteaders are living there yet, most of them did not sell to Wright, Blodgett & Company and other timber people, they did not take any timber lands around close to them. They have just taken ranches for their homes. Some of these homestead people besides himself took timber land, there is a man by the name of Herron who took a claim up there, but he sold this in the last year to some person from Medford whose name he does not know, but not to a timber man. He sold it for a fruit ranch and they are setting it out in fruit now, they put out fruit trees. He can think of some one up there who has entered a timbered quarter like he did and has sold out to these timber people. He thinks some of them entered under the timber and stone act and some proved up in fourteen months the same as he did. Some of them disposed of their holdings to the timber people. He thinks they made about the same kind of improvements that he did.

“Q. You say that about 40 to 60 per cent of this land could be made tillable after the timber was removed. Isn't it a fact, Mr. Clark, that these lands for twenty years up there, from 1872 down, these timber

lands were considered of practicaly no value?

A. Well, I don't know, it is just according to the demand for them. There was no demand for them, there wasn't many people in the country then like there is now."

He does not know when the general demand for timber became pretty active up there, it has been probably twelve or fifteen years ago. He bought some land from the railroad company. He has eighty acres that he bought from them and paid \$2.00 an acre for it right where he lives in section 21, township 11 south, range 1 east. He could not tell how long ago it was that he bought it, but it has been something like twenty years ago. That is where he now lives and he has about fifteen acres cleared and there is a part of that which is on another eighty which he owns below, he owns 160 acres there. This railroad eighty that he bought is not a part of the land that he had logged off and sold to the saw-mill. There is five or six hundred thousand feet still standing on this railroad eighty, that would be considered on the 160 acres that he has. The bottom land he has all cleaned off and slashed, and part of the hill land he has in pasture. He bought this railroad eighty about twenty years ago at \$2.00 an acre. He was just a boy when he bought it there and he imagined it would make him a good home when he got to be an old man. One reason why he bought it was because it adjoined the eighty that he owned. He did not live on either one of these eighties just then, but he now lives on the railroad eighty.

Whereupon witness testified:

Q. Your father had a large family, I believe you said. Did he try to make a living running a sawmill?

A. Yes. He did make a living.

Q. How long did he operate that sawmill?

A. Well, he operated that until us boys was old enough to operate for him.

Q. And then you operated it?

A. We ran it.

Q. How long altogether, between you?

A. Well, we commenced there in 1872, and sold the last of it out, last of the mill out about six years ago.

Q. Did you operate it continuously during those years?

A. Oh, yes, we run it, worked along there.

Whereupon witness testified that people came up from the valley to buy lumber as far west as Scio. People in the Willamette Valley used to go up from the valley into the foothills or mountains with farmers' wagons and get fencing lumber or any kind of lumber they wanted and there was where the lumber trade was principally. He used to get about \$6.00 a thousand feet for rough lumber and \$12.00 and \$14.00 a thousand for dressed lumber, and he thinks they can get twice as much as that now and a little more than twice as much. For a great number of years he sold his rough lumber at \$6.00 and his second common for \$6.00 and \$8.00 and his clear stuff, dressed, for \$10.00 or 12.00. He sold it as far west as Albany. Sometimes the farmers would come

up there with their teams and stay all night. They brought their hay and oats along and camped out. That is the way it used to be done through the Willamette Valley.

Whereupon, on re-direct examination, witness testified that they had no railroad up there yet, they have just got railroad land, that is all. He thinks industrial conditions would justify building a railroad into this country. Very few people realize either the advantages or the difficulties that confront a settler in this country excepting those who have actually faced them, and it is quite an easy matter either to exaggerate the advantages or difficulties. That railroad land there is just in the foot hills. He lives right in the upper end of the valley and then at that point it starts in with mountains, slopes gradually back. That does not change his testimony as to the usefulness of this land for settlement. They have a young lady up there who has taken a homestead and her mother has been living with her and they just went out yesterday to town.

Whereupon witness testified:

Q. What I mean is this: so far as the value of the land is concerned to settlers, does it make any difference whether you call it foothills or mountains?

A. Oh, I don't think so; not so they can get out and in. We have better health up there next to the mountains.

Q. Well, now, when you speak of it as foothills or mountains, does that go to the question of the character

of the land, or its susceptibility to settlement and cultivation?

A. I don't think so.

Q. When your people went into that country, was the timber of any value to you except for fuel and your building purposes?

A. Well, what we sawed into lumber was. We could make something out of it, of course.

Q. As early as 1872?

A. Yes.

Whereupon witness testified that in one way the timber is more valuable today than it was when he went in there, it is higher priced now. He does not know as the timber would be an obstacle to the settlement of that country. They have got to get that timber off. Some would use the timber in improving the lands. They have to have some timber for that but then there would be more there than would be necessary for farming, putting into ranches, as far as that is concerned. They would use that timber, they would not waste it, it should not be wasted. They could take the timber and sell it and get money for it and use that to clear the land up, and even if they could not sell the timber they could clear the land and make a good home out of it. If they could get money for the timber that would not obstruct them, but would help them in making a home out of the land, it would give them that to go on.

Whereupon, on re-cross examination, witness testi-

fied that he does not know what would be the average value of these railroad lands in their present condition. At the present time one can hardly estimate timber where it will go 200,000 feet to the acre. There is some timber up there that will go that. There is other timber land that has no timber on it at all, they are just bare, one might say. 200,000 feet to the acre has been cut right there at the Star Mill, they estimated one acre just to see what it would bring. Of course he does not know if there are many acres like that, but take pieces of timber that has 200,000 feet of timber, to take the clear lumber and work it up, one could not value it hardly. It would be worth a good deal of money. He would not feel hardly capable of pricing this unsold railroad land with which he is acquainted. He got \$12.50 an acre for his timber land that he sold up there. He thinks that a timber quarter that carried 200,000 feet an acre would be worth \$10,000 to \$15,000, and he supposes that the value depends on how much timber one has got on the land in the main, as to whether it is high priced or low priced.

Whereupon upon re-direct examination witness testified:

Q. Well, now, just one more question, Mr. Clark: suppose that the timber should be cut off, I want to ask you, as a practical man living in that community, and knowing the conditions, whether the land would possess a value with the stumps in the ground, you understand, after the timber has been removed,—would it possess a value to the settler to come in there and clear the ground, and subject it to cultivation and make a home of it?

A. I don't know as I just understand how that is, how you mean that.

Q. Well, now, ask me more, so that I can make the question more definite. I do not want to make my question suggestive to you, Mr. Clark.

A. Well, now, ask it again, and see if I understand it.

(Question read.)

A. Yes, I think it would.

Q. What I mean is this: Is that land valuable only for the purpose of having a man come in and pretend to make a home, simply to get the timber, or is it valuable after the timber is removed for the purpose of making a home of it?

A. Yes, it is valuable, of course. It is valuable for a home.

Q. After the timber is removed?

A. After the timber is all gone, yes.

Whereupon, on re-cross examination, witness testified:

Q. Mr. Clark, it would cost about as much to remove the timber and grub it out as it would to buy an acre of cleared land, wouldn't it, if you had to hire it done?

A. It is according to the man. If you or I would go to work with a grub hoe, and grub it out, it would be very expensive.

Q. If you had to hire the work done, it would cost about as much as to buy the land?

A. I saw last winter in "the Homestead," where a man cleared 40 acres, and the timber was cut down as thick as it could be sawed. He cleared that 40 acres in one season with the help of two men.

Q. He must have been a Samson.

A. He char-pitted the stumps, burned them all out at once, he burned those logs in those holes. Now, you and I probably would not be wise enough to do that.

Q. That was one experience that you have had?

A. I just read that in "The Homestead."

Q. Oh, you read that in a paper?

A. I saw the picture of the land there, and it gave it in several numbers.

Q. The char-pitting proposition is an experiment yet, isn't it?

A. No.

Q. Do any char-pitting up there?

A. Yes, sir.

Q. How much have you done?

A. I have not done any of it, but I have seen the neighbors doing it.

Q. How much have you seen done by any person on this heavy timbered land?

A. They are doing quite a bit of it. There is a

neighbor right adjoining me. I saw several big stumps that he burned out there, right on both sides of me last winter, burned out those big stumps. After he got fire, all he did was to keep that covered up, and the fire did the work itself.

Q. Isn't it a pretty big job to set fire to one of these big fir stumps and to keep it going?

A. No, they tell me not.

Q. You never have done any yourself?

A. No, what I did I took out with a grub-hoe.

Q. Don't you use blasting powder to get these stumps out?

A. Yes, I blasted out some last winter.

Q. Haven't you seen these stumps hauled out with block and tackle and donkey engines—pulled up?

A. Yes.

Q. And make a pile as big as this courthouse, and set fire to it?

A. I shot 120 of the large stumps last winter with about \$12.00 worth of powder.

Q. How long were you at it?

A. Just about two days.

Q. Did you estimate the cost of clearing an acre of this land that stands as that saw-timber does?

A. No, we were just shooting out those stumps around in what I had cleared.

Q. Don't you think it would cost from \$50 to \$100 an acre, if a man had to count in labor and material, and hire it all done?

A. It might cost him \$200, some fellows, the way they manage. Others would do it lots cheaper.

Q. I mean a prudent, practical man, don't you think it would cost him \$50 to \$100 an acre to clear these timber-lands?

A. That depends, you know, on how you go at it.

Q. Well, wouldn't that be a fair price?

A. Well, I expect it would. But then, when that is cleared up, probably that land, after it is cleared up, they would charge you \$500 or \$600 an acre for it.

Q. Well, do you think it would be worth \$500 or \$600 an acre away up there twelve miles east of Scio?

A. What is the difference? If we have got a railroad out there, we can ship our stuff into the markets just as good as you can out here.

Q. Don't argue, Mr. Clark.

A. Yes.

Q. You haven't got a railroad there yet?

A. Well, we are going to have sometime. We live in hopes.

Q. I understand; but you are comparing that land without a railroad with land here at Fairview, twelve miles east of Portland?

A. Yes, sir.

Q. A city of 275,000 people, aren't you?

A. Yes, sir.

Q. And you find that land out here at Fairview, twelve miles east of Portland, in the woods, is worth \$400 or \$500 an acre, today, and you think that that land twelve miles east of Scio, up there in the mountains, would be worth \$400 or \$500 an acre some time, or when you get a railroad, after it is cleared?

A. Yes; they are selling the land right close to this area for \$150 an acre.

Q. That is already cleared?

A. Yes.

Q. Desirable lands? Not in large quantities, are they?

A. Well, a man had eighty acres, and he refused to take that for the rest of it. Part of it was in brush.

Q. He refused to take \$12,000 for eighty acres?

A. Yes, sir.

Q. Any timber on it?

A. Some of it has a little timber on it.

Whereupon, on re-direct examination, witness testified:

Q. Just one final question, Mr. Clark: In testifying as to the availability of this land for settlement purposes, have you taken into consideration the cost and difficulties of removing the stumps after the timber has been removed?

A. Nothing only that, that I told you about. That is all that I have blasted out. The rest I have grubbed out by hand.

Q. What I mean is this: In your general testimony have you taken into consideration, in testifying that this land would be available to a settler, have you taken into consideration the difficulties and the expense that a settler would have to encounter in removing the stumps?

A. No, I don't know as I could tell you that, because there is some acres, you know, that is much easier cleared than others. Maybe you will strike a patch of ground, suppose there is ten acres, of one acre that might cost as much as all the rest. I don't know how you would estimate it.

Q. Well, upon the general question as to which your testimony will be considered by the court, what have you to say as to whether this land is good land for a settler, considering the condition of the soil, the character of the soil, the climatic conditions, and also the cost of removing the stumps after the timber is removed? Have you considered all of those elements in saying that the land could be used by settlers, and that the land could be settled up?

A. Yes; it could.

Q. That is your best judgment?

A. Yes, sir.

Whereupon C. S. JACKSON, called as a witness on behalf of complainant being duly sworn testified that he resides at Roseburg, Oregon, and was born and raised

in Douglas County forty-five years ago and has lived there ever since, excepting a short time when he was away to college for two or three years. He was in the Leland Stanford University three years and in the University of Denver, Colorado, one year, and is by profession an attorney at law and engaged in active practice at the present time and located at Roseburg. He was born two miles east of Canyonville twenty-seven miles south of Roseburg on a farm. Canyonville is six miles off of the Oregon and California Railroad in township 30 south, range 5 west. His father settled there in 1853 on 160 acres of land he thinks. He was there in time but did not get it under the donation act. He entered the land under a public land law he thinks he took a homestead and then he took in addition adjoining that some pre-emptions also. He owned in all about 500 acres and the land was agricultural, a portion of it was timber land originally. The part of the land that was cleared and reduced to cultivation was the ordinary land there that they called the timber lands. There was about one-third of his father's place plow land. He remembers he helped clear a great deal of it himself during his younger days. The balance of it was clear when his father took it, about two-thirds of it was clear when his father took it, and the balance of it was cleared, and there is a large amount of it yet uncleared that is good agricultural land of the total five hundred acres. The timber there ranged from brush up to six or seven foot stuff. Lots of it was saw timber. His father sawed it and floated it down the river to a mill there was below there. His father made a wind-

lass grubbing machine, they called it, to clear the land. It was a capstan with a large windlass on it, and he used a two-inch rope and span of horses. They could pull out very large trees with that. Some of the logs were sold and some of them they had to burn on account of the mills not being near enough. They had to burn a good deal of the timber. The clearing was done through a period of several years. They were still clearing, he thinks, when he left the farm twenty-three or twenty-four years ago. The soil there was splendid. It is the same as all of the upland soils there in Douglas County. There are two classes of soil there, there is river bottom soil and what they call upland soils, the river bottom soil is the best, the better of the two. The upland soil grows all kinds of crops, all kinds that this zone would produce, that includes fruit, the very finest grows on the uplands. Many acres of orchards there now are put on the uplands. The upland fruit is a little better in flavor, but usually not quite so large in size. The river bottom lands are very productive and are richer than the upland lands in their natural state. River bottom land is better producing land. He has been all over Douglas County, thousands of times almost, he would say hundreds of times, and over adjoining portions of Douglas County, north, south, east and west, and referring to "Defendants' Exhibit 266" and starting in at township 30 south, range 5 west where he used to live, he has been in the mountains practically all over those townships from the head of Wolf Creek and Evans Creek in Josephine and Jackson Counties clear to the Crater Lake country, clear to the summit of the Cas-

comes south of Crater Lake and then north from there, from Crater Lake as far north as Mount Thielsen they call it, it used to be called Diamond Peak, and he has been from there down all the forks of the Umpqua River, from there to the mouth of the Umpqua where it flows into the Pacific Ocean and all over the tributary of Cow Creek to the summit of the Coast Range mountains, and north to the divide between the Willamette and the Umpqua Valley. He has been all over the watershed of the Umpqua. He has not had any farming experience since he left the farm twenty-two or twenty-three years ago, excepting when he went back to the farm during the summer seasons, occasionally he would go back to the farm—not to make it a business. He has not done any farming on his own account since then. His father is still living at Canyonville, he has got too old to live on the place and has moved over into town, he is nearly eighty years old now, he moved into town about ten years ago. The old farm is still producing. His father sold the farm. He thinks there is something like four, three families anyway, now living on it. The land in that locality is all of the same quality of land for several townships around where his father used to live. The character of the land there, a portion of it is similar to the general character of all the land through Douglas County. His father's land runs from the rolling hills down to the river bank, some of it is level and some of it is rolling, being part of the hills there and opened up to the outside range and his father always kept cattle there all the time he had been there, over all those outside ranges, a good

many acres of railroad land he had used there for years and years, two townships he thinks laying back of him between that and Myrtle Creek that was always open range, timber and brush, the same as what his father had. He knows in a general way where the railroad lands are situated in Douglas County which are involved in this suit and referring to "Defendants' Exhibit 266" that substantially represents the present holdings of the Railroad Company which the Government claims has been forfeited and he has a map like that which the Company furnished to him, that is, he called it a quadrant with a quadrangle for Douglas County. The even numbered sections which intervene these railroad lands are all settled, practically all settled now. They are either settled on or owned by people who are not living on them, they are practically all taken. The title has all passed and the settlers are all over them everywhere. He would almost say that there is a settler to nearly every even section, there would not be a settler for every quarter section. He knows some of those lands are held in large blocks by timber companies and knows there are a number of large holdings of that kind. The Smith people have lands and two or three other large companies all in that county there have lands. He should have said that the settlers would average more than one settler to every section. The settlers are farming and using the lands the best way they can, farming what they can of it and pasturing what they can of it. He knows that there is railroad land settled on, quite a few settling on railroad lands and have been there for years and years, farm-

ing it and using it. He has had clients who have been on railroad lands, who are there yet, the company has tried to oust them, some of them they have ousted and got them under contract with the company, or something of that sort, a good many of them have held their lands and are still holding them, without the consent of the company and they are cultivating the lands. He would say that seventy-five to eighty per cent of these railroad lands in Douglas County with which he is familiar could in his judgment be cultivated successfully, and will be some day. A settler does not have to have 160 acres of plow land in order to maintain himself and his family. He knows people there who are making a good living where they do not have more than three or four acres of plow land cleared and using, four or five acres will produce them hay for their horses and cow and they have their chickens and a few head of stock ranging in the mountains, none of it is fenced there. The Oregon laws do not require them to keep stock on their own lands, and they let them run at large, and everybody gets the benefit of all the outcountry and they all use it.

Whereupon witness testified:

Q. Well, taking into consideration all of those conditions, and the character of the soil, the uses that can be made of it, the quantity and quality of crops, both agricultural and horticultural, that can be grown on the lands, and taking also into consideration the amount of plow land that a settler has to have in order to maintain himself and his family, I will ask you to state, in your judgment, what percentage of the quarter sections of

these railroad lands, if disposed of and properly handled, would support a settler and his family?

A. On account of the general lay of the country, there being hills and valleys everywhere, there is hardly a quarter section but what some portion of it will extend down on to the leveler portions and furnish sufficient level land to build him a home upon and clear up for his own use. Some portions of it has cliffs of rock, for instance, that would prevent its use for most any purpose except the mineral that is found there. Those portions would not be suitable for agriculture nor farming, that is, plowing; but most of those rocky mountains that are found here and there have grass growing on them, and stock range on them, and they furnish a large supply of feed for domestic animals.

Whereupon witness testified that dairying can be profitably carried on in that country and would be a success there and is carried on to some extent. He has been there for forty-five years and knows almost every development that has been carried on in that county and is familiar generally with the industrial resources of that country and the history of the development of those resources down to the present time, and is familiar in a general way with the methods the Railroad Company has used with reference to its granted lands in that county, including the former disposition of them, down to about 1903, and then the withdrawal and withholding of the lands by the railroad company since the latter date and is familiar in a general way with the sale of

those lands in large tracts by the railroad company between the years 1894 and 1903. He knew that was their system at that time.

Whereupon witness testified:

Q. I will ask you, Mr. Jackson, whether in your judgment the methods that have been pursued by the railroad company, and the policy that has been observed by it with reference to these lands, has promoted or retarded the industrial development and settlement of that county.

A. It is a very serious handicap to the development of all Southern Oregon; not only Douglas County, but all Southern Oregon.

Q. Has that effect upon development been limited to the odd numbered sections themselves held by the railroad company at the present time, involved in this suit, or has it extended to the even numbered sections?

A. Yes, it has extended to the even numbered sections, and even goes farther than that. The mineral interests are suffering, and the tax question there has become quite prominent. The railroad company this year, I think, paid something like \$103,000 on the railroad lands. That must necessarily be charged up to the expense of transportation, and we suffer from excessive rates, or greater rates than we should pay, because that is no part of the carrier's business.

Q. These lands that were sold by the railroad company in large tracts or large areas, between the years

1894 and 1903, state whether those lands are still held in large tracts or not, speaking generally now.

A. Yes.

Q. Now, explain to the court why the holding of these railroad lands in alternate sections by the railroad company, or by its large purchasers has affected the development of that county, not only the odd numbered sections themselves, but the intervening lands.

A. It isolates settlers, and because of their isolation they are denied the social developments that naturally belong to settlers, such as schools and churches and roads and highways. Every alternate section being under the control of the defendants prevents developments there, and many instances where settlers have gone in there, and because of those great drawbacks many of them leave their homes, and people with scrip will take them, or they will remain undeveloped.

Q. I will ask you whether, in your judgment, if those lands should be disposed of in 160-acre tracts to settlers, that is, if they should be offered in 160-acre tracts to settlers, whether that country down there could and would be settled up.

A. I believe that every quarter section would be taken within a few years and developed, made a home for a family.

Q. In making that statement, and in the making of your other statements with reference to these lands and the uses that can be made of them, have you taken into

consideration the question of clearing the lands?

A. Yes. Of course, the speed or progress of the settlement would be retarded as the development of the country in general would go forward. Becoming very thickly settled, the demand for homes becoming greater, would cause people, and the price of land increasing, would cause the settlers to take less and less desirable pieces; of course, the first settlers taking the best.

Q. Now, would it be necessary for the settler to find a market for the timber in order to clear the land, or a sufficient part thereof for the purpose of his use?

A. No. He could probably, under the present circumstances, market a portion of what he would take off the lands that he cleared. The remainder of it he would have to burn up. But he would not have to clear his entire holding to enable him to live.

Q. Do you know of instances where settlers are living on lands adjoining these railroad lands, and of the same character, and are maintaining themselves?

A. Many of them.

Q. In addition to what you have already testified to, do you know of any instances where settlers have attempted to buy these lands from the railroad company, and have been refused?

A. Yes, sir.

Q. To what extent? Give the court the benefit of your information upon that subject.

A. Well, in the course of my line of business I have

had a great many inquiries about the purchase of that where they have been turned down, and wanted to know whether there was any way by which they could secure the lands. A good many of these inquiries have been from men who are now on the lands, and a large number of them have been those who contemplate trying to get the lands; and they have all been refused since 1903, I think. Mr.—what's his name? McAllaster, I believe is their land agent—he usually writes to them,—they bring the letters in—that the lands have been withdrawn and will not be offered; and then since this suit has begun the letters also contain the additional statement that they cannot sell until the suit is disposed of, or words to that effect. There is a great clamor to get hold of these railroad lands by people who want to make homes on them.

Q. Now, is that limited to people who are trying to get them at \$2.50 an acre?

A. I have had clients state that they would not necessarily confine the company to their price, that they would be willing even to give more in some instances, but usually they want to pay the \$2.50.

Q. Now, did these instances occur, all of them, since this controversy arose, or did you have similar experiences prior to that time?

A. Since 1903, the withdrawal of the lands, the applications have been coming right along, clientage consulting about it right along. Prior to that we conducted a good many sales with the company.

Whereupon, on cross examination, witness testified

that his father's place was two miles from Canyonville, and he thinks that he and his brother acquired that from the United States as a homestead. He settled there in 1853 and then took some cash entries adjoining. He thinks he took his homestead when he went there, shortly after he went there. He and Gazley and Fullerton went in together, and his father took that about 1854 or 1855 when he was only about nineteen or twenty, he went there and squatted on it and took it. Witness would not say that he took that under the homestead act, he does not know that the homestead act was in effect at that time, his father got it under the land laws just the same. He thinks the homestead act came later. The first donation act of 640 acres was in effect and then that was reduced to 320 acres. He does not think the donation act was then passed but he thinks the 640 acre act was disposed of about 1853 and changed to 320 acres. His mind is not clear as to the exact dates of that. The pre-emption act had been in effect, he thinks, for a long time. He thinks the 160 acre homestead act was along about some time in 1860, but the donation act was trimmed down to 320 acres and 160 acres to an unmarried man. He does not know whether his father took the 160 acres as a donation, or just held on there until he got the homestead. He could not say as to that. He is not sure whether his father took it under the donation act or whether he just held it there, it was not hard to hold in those days. The rest of it his father took up about the same time under cash entries, he thinks all of it and had patents to five hundred odd acres, and when his father got his patents

to these lands very close to two-thirds of it was clear in its natural state. A good deal of the cleared portion lay on the river, the South Umpqua, and the part that was not cleared was back on the foothills, he cleared some of the bottom lands too. He could not say when his father sold these lands but it must have been ten or more years ago, he could not say about what he got on an average an acre for it, he could not say what he did get. The present owner he thinks paid a few years ago something like \$10,000 for about 500 acres, but they are now worth a great deal more. He thinks the lands changed hands a time or two after his father sold them. Canyonville is a little old town on the old stage road and has about two or three hundred people, something like that. There is some mining around there, placer mining and quartz both. There is one quartz mine, it might be called a mine undeveloped, within one hundred yards of the city limits. Canyonville is six miles east of Riddle. Referring to "Defendants' Exhibit 259" there are no railroad lands in the valley around the South Umpqua in the vicinity of Canyonville, most of that land was taken before the right to the grant attached. The lands, the low country there, the Umpqua River does not furnish the only valley, there are little valleys up all those tributaries of the river, and they run from that back on the hills gradually in most instances, in some places they are precipitous. He would say that of these railroad lands with which he is familiar in Douglas County outside of the part that is naturally clear they would consist of brush and timber. He could not say definitely that Douglas County is one

of the best saw timber counties in western Oregon, Lane County has a great deal of saw timber, Douglas has a great deal of saw timber but it is splendid land, all good soil. The soil in Douglas County is different from what it is in Jackson county. He would say that there is a great deal of poor timber on these railroad lands in Douglas County. One can find good timber, that is he would call it good, although he is not an expert on timber. There is some good timber.

Whereupon witness testified:

Q. Now, Mr. Jackson, you say that you have represented a good many applicants to purchase these railroad lands. Do you refer to about five thousand applicants that made application through Mr. Leavengood, in Douglas County, to purchase these lands under the act of April 10, 1869, at \$2.50 an acre, that sent out these printed blanks, which were signed by people from all over the United States, and made what they called written tenders, and demanded a conveyance from the railroad company? Do you refer to those?

A. No, I never had anything to do with those.

Q. About how many applications have you had for the purchase of these railroad lands that have been transmitted to the company since 1903?

A. Oh, I couldn't say.

Q. Well, has there been as many as a dozen?

A. Oh yes, more. Oh, you mean that have been transmitted?

Q. Yes.

A. Possibly not more than that.

Q. Can you name the list of the persons whose applications you transmitted?

A. No, I could not.

Q. Could you name any of them?

A. Let's see. I wrote to the company for a fellow by the name of Kent I know.

Q. When?

A. He has got some of your railroad land fenced in too, and has had it for twenty years.

Q. When?

A. That must have been a couple of years ago possibly.

Q. Now, name anyone else.

A. I think a fellow by the name of Bolsinger. I wrote in his interest once, I think.

Q. Did you sign your own name as his attorney?

A. I usually did. Sometimes I wrote letters for them.

Q. Did you address them to the San Francisco office?

A. All the correspondence was done through the office there I think.

Q. All the correspondence was done with Mr. McAllaster?

A. Whatever was done was done with the present man, I think.

Q. Mr. McAllaster?

A. That is what you have reference to?

Q. Yes, that is what I mean. Now, can you name any others? You have named two.

A. Well, recently I think there has been one or two.

Q. Can you name them?

A. I am poor at remembering names.

Q. Now, what did these applicants offer to pay, \$2.50 an acre

A. That was usually their desire, to pay the government price.

Q. Did they claim under the act of April 10, 1869?

A. Well, they seemed to. Now, the recent applicants seemed to be pretty well advised on this suit, and the price, etc., and they come in with that expectation of getting it.

Q. I mean since 1903 have they all asked under this act that have come through your office—the act of April 10, 1869?

A. You refer to the land grant act?

Q. Yes.

A. Yes, they wanted to get it under that act.

Q. All of them since 1903 that you have handled?

A. They wanted to take it, yes. They wanted to take it. I have advised them all the time—some of them have come and asked advice about taking it without consulting the railroad company—in most instances I have advised them to take it under the rules of the company.

Q. Well, to demand the price under the railroad act?

A. Just told them that, yes.

Q. That is under the \$2.50 an acre?

A. Under the rules that the company were selling them under.

Q. That is, the ten-year proposition?

A. Yes, or cash either one, whichever they wished to pay.

Q. I understand. And as early as 1903 you knew, didn't you, of this proviso in the act of April 10, 1869, which attempts to amend the act of July 25, 1866, being the land grant act involving these lands and attempting to limit the amount that could be sold to 160 acres, and attempting to name the purchaser as an actual settler? You knew of that?

A. I knew there was an amendment there, but the effect of it I couldn't call to mind right now, because I have not examined it recently.

Q. Well, that is one thing we are trying to find out in this suit, is the effect of it.

A. Yes.

Q. But you knew of that statute? I mean, the lawyers knew of that generally?

A. Yes.

Q. In Southern Oregon, didn't they?

A. Yes, my attention was called to it when I tried to get this wagon road grant, when I was in the legislature in 1907 there.

Q. Well, but long before that, this question of \$2.50 an acre to actual settlers was a matter of discussion among lawyers in southern Oregon, particularly in Jackson County, Josephine County and Douglas County, wasn't it?

A. In what respect, Mr. Fenton?

Q. As to the \$2.50 an acre proposition, and the sale to actual settlers only, and in quantities not to exceed 160 acres?

A. As to whether that was compulsory or not?

Q. No, as to whether it was known. Didn't lawyers know of it and discuss it?

A. I think the lawyers knew of it; that is, those that had any work along that line knew of it.

Q. Nearly all of the lawyers in southern Oregon that had any practice at all had some knowledge of the public land laws and had some business in that direction?

A. Well, quite a few of them don't yet know about

that, because they have been asking me about it.

Q. Well, couldn't they find out from you?

A. I usually gave them my citations, where they could go and find the laws.

Q. Well, Judge Watson, E. B. Watson, former justice of the Supreme Court, raised that question in 1896 in the tax case in Jackson County, didn't he?

A. As to the taxing of railroad land?

Q. Yes.

A. There was a suit down there. I don't know who raised it.

Q. Well, didn't you know that that was discussed by him in one of his briefs in that case?

A. I am not very familiar with the case, although I understood that. I did not see his brief, no.

Q. Well, didn't you know that? You knew of that \$2.50 an acre provision as early as 1896, didn't you, or before it?

A. Yes, I knew it was in there myself.

Q. Well, now, the lawyers generally knew of it, didn't they?

A. Well, I couldn't say as to that, Mr. Fenton. I don't think they did generally.

Q. How did you get your knowledge of that?

A. Well, I got pulled into that litigation pretty early.

Q. What litigation do you refer to?

A. I don't call it litigation really, but contentions for these lands. I had occasion to examine it.

Q. You had some business in the local land office, didn't you?

A. I have a little, yes.

Q. Ever since you have been practicing?

A. Yes.

Q. How long since you have been practicing law, Mr. Jackson?

A. Since 1898.

Q. Were you in the county clerk's office for a while?

A. Just a year.

Q. When was that?

A. 1898.

Q. And at that time you knew of this statute?

A. Well, I couldn't say that I did, no.

Q. How soon after you left the clerk's office?

A. It wasn't long after I got into practice when these contentions arose.

Q. Who first brought it to your attention?

A. I couldn't say. The Matthews up there had a contract from the railroad company for 320 acres, and I carried that along for three or four years. I think the company finally deeded it to them. They got a

deed to that. The contract was lost. But then it was earlier than that that I got in.

Q. That you knew of this \$2.50 an acre provision?

A. Yes, I knew of it earlier than that.

Q. Now, you said, I think, that there was a good deal of clamor about the sale of these lands. When was that clamor—how early?

A. Well, of course it all arose, that is, most of it arose since the withdrawal.

Q. Since 1903?

A. Yes. Before that we had some difficulty on railroad or on mineral lands. I know father tried to purchase some from the company, and he didn't get it. They wanted thirty or forty or fifty dollars an acre—I don't know what it was.

Q. He didn't claim it though under the \$2.50 an acre clause?

A. Well, no. He claimed it under that, but he was willing to give more even than that for it.

Q. Your father then knew of this \$2.50 an acre clause?

A. Oh, no doubt he did. I guess he did. He did at that time I know.

Q. That was long before 1903?

A. Yes, that was before 1903.

Q. Now, this clamor that you speak of originated

after the company, as you say, withdrew the lands from general sale about 1903, as you recollect it?

A. Yes, the talk for the lands, or the applications made for them increased in numbers after that. -

Q. About when did timber lands become an object of considerable inquiry and location under the timber and stone act, and under the homestead act, out there in Douglas County, and under scrip—anyway they could get it?

A. Well, do you mean when the greatest rush came for them?

Q. Yes.

A. That was about from 1900 to 1904 or 1905.

Q. It began about 1900?

A. Right along there somewhere, as near as my memory serves me.

He does not think that the railroad was built through Douglas County about 1878. He thinks it ranged from 1881 to 1885 when the line of definite location was established. If the record shows it was 1878 he would be wrong, but he does not think the record shows it. He would not say that for fifteen years after that time these lands had no particular value or that there was no particular inquiry for sale. The inquiries for sales were not as great then, he supposes because of the lack of influx of settlers. There was a demand for timber, but then timber closer to transportation was used first for domestic and ordinary local use, the question of

speculation was not as strong then as it was later. He could not say that there was not any speculative investment for timber in 1878, he does not say there was, he could not say he had any knowledge at that time. He does not remember that he ever put in an application to purchase any of these timber lands from the Railroad Company for himself. He filed on a homestead on lands in Douglas County, but he has not proved up yet. He took a squatter's claim off of his father's ranch once, but never proved up on that. That was when he had just about reached his majority, or a little before that. He did not prove up on that because he thought he could do better, and he went off to school. Some one took it afterwards and it is patented now. It was not a great while afterwards that some one took it, and it is taken all over that country now where they used to run cattle. The country is still open, further up the Umpqua and into the mountains, they run stock up into the mountains. He can tell of a settler on these railroad lands living there, Maccabee, with whom counsel for the Company has probably had some correspondence there about his claim. Maccabee is on Day's creek, but witness does not remember how many acres he claims but he and his predecessor have been there, he does not know how long, but they have been there a good many years. He thinks Maccabee was there before the definite line of location, and claims the lands as his own. He knows of railroad lands that are under fence by people who live on deeded land. This that is under fence is probably there under a claim of these people. Some of

them claim it is their land under the statute of limitations and others, he thinks, have stayed there where the Railroad Company has gone and got them to lease it from them, under their lease system now. He had clients with whom they have done that. He knew some people who had gone and taken a quarter section of this railroad land, jumped it and are claiming it. Very few of them have stuck. He has forgotten their names, He could not say as to whether these people had applied there through Leavengood and posted notices on these quarter sections generally, he was not advised at all on that. He does not think many of those people settled. He understands that a good many of those people were largely non-residents but he is not advised on that. He does not know Leavengood's system or anything about it, but he understood that he had a system and that he worked it pretty industriously. Personally he never had any litigation with the Company, he has had claim clients and timber claim clients and things like that and had a case against the Company involving the township site of Roseburg, that was the case of Johnson against Wollenborg, he believes that was the case which involved what is claimed to be the south half of the donation land claim of Aaron Rose and wife and covered a part of the town of Roseburg only and upon which part of the depot grounds of the Oregon and California Railroad Company are located, practically part of the grounds and he sued about three or four hundred people there in that suit. That suit went to the Supreme Court, it was a suit in equity for

partition. The Supreme Court held that partition was not a proper remedy. There is an ejectment action pending now against the Cobb Real Estate Company he thinks it is called but there was no ejectment yet as to any others. This Courtney Chauncey was a nephew of Mrs. Rose, Mrs. Aaron Rose the donation claimant, this land had not been occupied and claimed by these people who are now in possession, there is a scattering piece here and there, a scattering lot here and there, which has been held for a great many years. This tract has been laid out as a town in more recent years, the town has branched out in that direction, but he does not think that the town has been laid out in there, any on this part of it as long as thirty years.

“Q. Well now you have had some other controversies in which the railroad company was interested, haven’t you?

A. Yes.

Q. You were interested in these and a witness in one of these freight rate cases weren’t you, down at Salem?

A. No, well I did appear as a witness. I appeared more on behalf of the citizens of Douglas County there in that instance. They put me on the witness stand after I got there.

Q. The citizens of Douglas County used you as a witness?

A. They sent me down there to look after their

interests and the commission called me after I got there as a witness.

Q. But you told them you would testify as a witness didn't you?

A. No, they knew what I knew.

Q. I see, and they put you on the witness stand?

A. Yes.

Q. Simply to put it in the record?

A. I suppose so, yes."

He does not remember what that case was but thinks it was a case on class rates south out of Portland, distributive class rates out of Portland, involving merchandise but he is not sure. He thinks that was a case involving the first four classes principally, as he remembers it. He is not a merchant, has never been one, he is not a cruiser and has never been and never bought and sold timber lands as such, never farmed since he left his father's place and went to school excepting at the short intervals that he would come back to help his father until he got through college, university. He has not farmed since he graduated and does not own a farm and is not interested in the farm any more than a citizen would be. He owns some mining land in Jackson County up in Star Valley. The Railroad Company has some mining lands there that they have got to give up one of these days right adjoining his, but he is not interested in that only as an attorney. The Railroad Company got a patent passed on that particular piece that he has in

view now and if the Company does not deed it over, or dispose of it in some way to his clients he expects to bring suit to cancel that patent.

Whereupon witness testified:

Q. Well, all of your interests have been adverse to the company as a professional man, and also as a man interested in mining, haven't they?

A. I have never been fortunate enough, if you mean that, to be attorney for the railroad company, and therefore my position has always been on the opposite side.

Q. Well, if you were attorney for the railroad company you might not have been able to go to the legislature like you did go. Isn't that true?

A. Well, I don't know about that, Mr. Fenton.

Q. When were you in the legislature?

A. I was there, I think it was the 24th legislative assembly, the time the railroad commission bill was passed.

Q. 1907?

A. Yes.

Q. Well, were you a member afterwards?

A. No.

Q. And never before?

A. Never before.

Q. Have you been a candidate for public office?

A. I ran for the nomination for state senator fol-

lowing that, but Mr. Abraham succeeded me by twelve votes.

Q. Albert Abraham?

A. Yes, sir.

Whereupon witness testified that they were both members of the same party and were running for the nomination. A good deal of that land can be plowed in its natural state where there is no timber. Where there is timber it would have to be cleared, of course, but it could be plowed. One can plow and raise stuff among the trees. One can raise more stuff if one would take all the trees off of it.

Whereupon witness testified:

Q. Well, if you had a quarter section that cruised ten million feet of saw timber, you wouldn't be able to plow much on that quarter section, would you, without the timber was taken off?

A. Sometimes that amount of timber will be on one fourth of it, and the rest of it will be good.

Q. Well, where is there a forty that has, we will say, two and a half million feet on it of saw timber?

A. Some of it runs as high as twenty million to the 160.

Q. It does in that county?

A. I presume that some of it right on the Coast Range, yes, in Douglas. It might be over in Coos County, but it is very close.

Q. And it is of the same general character?

A. Well, the timber over there is a little better than it is in the interior.

Q. Run as high as twenty million feet to the quarter?

A. Once in a while they have timber there as much as twenty million feet to the quarter.

Q. Well, what would that be worth according to the prices that have obtained in that county?

A. In Douglas?

Q. Yes. What would a quarter section that had twenty million feet of timber on be worth? As an investment, I mean.

A. Well, it is running there now from 25 to 50 cents a thousand, but the land is worth much more than that.

Q. Oh, I suppose the land is worth two or three times as much as the timber, in your judgment?

A. The land will be there forever, Mr. Fenton, but you only get once the timber. That is my view of that idea.

Q. That is the reason you put these values so high on the agricultural portion of it? That is your idea about it?

A. I think the agricultural part outside of the timber is worth very much more than all the timber combined.

Q. Well now, if there was a quarter section of land there that had ten million feet of timber on it, and was tributary to the Umpqua river, where it could be logged so that they could have transportation, that would be worth a dollar a thousand today, wouldn't it?

A. I don't think there is any selling for a dollar a thousand, or very little.

Q. Do you know of that because it is held in strong hands, and they do not want to sell at that price?

A. No, they are trying to buy at less and are buying at less.

Q. And keeping what they have got?

A. The fellows that are able to are, I think.

Q. That would bring a quarter section up to about ten thousand dollars? Don't you know of timber quarters out there that have sold for ten thousand dollars?

A. No, not in Douglas.

Q. How high are the highest you have known of quarters selling?

A. That is governed, Mr. Fenton, by the kind of timber and the location.

Q. I mean the best that you know of that has been sold.

A. Yes. As I say, they are selling now, what are selling are selling from 25 to 50 cents.

Q. Well, there are not very many selling, are there?

A. Once in a while they are picking them up right now, and for the last six months they have been pretty active. But it is largely men that are representing these large timber interests.

Q. They are picking up all they can?

A. They are picking up all they can.

Q. At the best price they can get?

A. Yes. Ranging in price. And that country, all you have got to do is to look at the logged-off country down from the Calapooia gulch there, where your railroad runs, to see that it will all be agricultural land.

Q. Yes, I have been there and have seen that agricultural land that you speak of. Cow Creek canyon is a fine agricultural territory, isn't it?

A. Just after you get up off that steep hill, there is level territory up there.

Q. Nice agricultural country all along the railroad through the Cow Creek canyon?

Whereupon, on re-direct examination, witness testified that Cow Creek Canyon from bluff to bluff, from what is always known as the old George Riddle place through to four miles below Glendale is a gorge. The Railroad Company has followed the stream up through the gorge. The gorge puts right down to the creek almost continuously there for the distance of the Cow Creek Canyon. He does not know just how far it is, something like thirty miles through the Cow Creek Canyon and its width varies. There are a few scattering

ranches on the creek along up through there, but when one gets back on to the hills, gets up the first steep place out of the gorge, there are other little creeks coming in cutting through it and the country flattens out and widens out, and it is a good country through there for grazing and a good many homesteaders scattered all through there. He does not believe the gorge would be a mile wide at any place, meaning from the slope of the hill across.

Whereupon the witness was recalled by complainant and on re-direct examination testified:

Q. Mr. Jackson, there has been some testimony in this case, not only with reference to Douglas County, but other counties, to the effect that a great many homesteaders have proven up, received their patents, and sold to large timber companies. I will ask you whether, in your judgment, from your knowledge of the general history of the subject there in your own county, that condition would have taken place if these lands had not been sold in alternate sections covering large areas to timber companies, and the railroad company had not withdrawn its present holdings from sale; would the settler have been driven to that?

A. I know of some complaint involving that situation, and it is causing settlers to become discouraged, and some of them are leaving, selling out, those that have got rights, and others that haven't got rights are abandoning them.

Q. Now, when the settler becomes discouraged in

the manner that you have testified, I will ask you whether, with the alternate odd sections there held permanently either by the railroad company or by these large timber holders—whether the settler can find any purchaser except the large timber company which holds the intervening odd numbered sections?

A. It seems that these large timber holders, not only have gathered up a good deal of the public lands there, but before the withdrawal they had secured large tracts from the railroad company, and they not only hold the government sections, but the odd sections too, because of the sale by the railroad company in some instances to them before the withdrawal; and where those conditions prevail the settler is practically up against it, as the fellow says in plain, modern terms, and is almost forced to leave. He is isolated entirely.

Q. Well, what chance has he to sell to anyone except the large timber holder who owns the intervening alternate sections?

A. Our experience there now is that the timber interests are sort of dividing the territory and not competing against themselves for the purchase of the small holder, and he is practically at the mercy of the one man that is operating in that particular territory where the settler might be.

Q. Well now, in your judgment, does the fact that the homesteader under those circumstances is compelled to sell to the large timber holder—does that fact, I say, in your judgment, indicate that the lands could not and

would not be settled up if they were all open to settlement?

A. If these unfavorable conditions mentioned were relieved, of course there would be a greater incentive for the settler, and there would be more settling, and the settler would be more liable to remain and develop the country into an agricultural producing country.

Whereupon E. J. MAHAN, called as a witness on behalf of complainant, being duly sworn, testified that he lives at Ashland, Jackson County, Oregon, and has lived in that county for twenty-three years. He was nine years old when he came into the county. His father was living then, but his mother was dead when his father moved to Oregon from California, where he lived about twenty-five years. His father settled in Jackson County, on a piece of unsurveyed land, two miles west of Ashland, from the post office, on a direct line it is not over a mile or mile and a quarter—in section 17, township 39 south, range 1 east, he believes this land was surveyed somewhere along about 1905. He remembers when the surveyors were there doing the work, because they camped at their place and he helped do the cooking, used to cook for them. His father went on that place on Christmas day, 1887, packed up on pack mules, and stayed there and made his home till his death a year ago this fall. He lived here with his father from the fall of 1889. His father went there in 1887, and then went back to California and got witness and his brother in the fall of 1889. His father built two houses on the place, both of which burned down, and he built

a third one. He had a barn, which is there now. Witness had the old house remodeled himself last year—built it over, and has been living there since his father's death. He is married and his wife is living there now with their baby. His father settled on 160 acres there. When it was surveyed, the railroad company claimed it, and there was a contest between his father and the company, which was decided in his father's favor in the local land office at Roseburg, and his father said it was a matter of record in the Roseburg land office there. The way he understood it, the railroad company appealed to the Department at Washington while Binger Hermann was in office, and Hermann ruled against his father on 120 acres, and that is the way his father explained it to him; so that his father finally got 40 acres and the railroad company 120 acres of the 160 acres his father settled upon, and the 120 acres is involved in this suit, being the west half of the northwest quarter, and the northwest quarter of the southwest quarter of section 17, township 39 south, range 1 east. It is good land, good soil, and has good timber on it—it is number one land, most all suitable for cultivation when the timber is cut off and it is cleared. His father cleared about 20 acres on the 40 acre tract, and they still retain it. Part of the clearing was on this other land, and some of it he originally had in cultivation, and when he lost it he let it grow up in brush, quite a lot that they had cleared. This photograph shows the land there, and there is the barn his father built, and there is the house that he remodeled. This house is within fifty yards of

the line. This 120 acres lost, lays right back of the house there, and part of it is fenced, and part of it is under cultivation too—witness referring to a photograph which he produces, marked “Government’s Exhibit 124,” which was offered and received in evidence and is hereinafter set out and described in this Statement of the which he produces, marked “Government’s Exhibit 124,”

Whereupon witness testified that he had also built a road to that property, his father, himself and brother built a road there that cost three thousand dollars, which cannot be built today for that. The altitude of that house is thirty-four or thirty-five hundred feet, and he would take that to be about an average altitude of the railroad land in that locality, sections 17 and 19, and all the land with which he is familiar there. His father set out an orchard on it and raised garden and berries, and improved it. When he went there it was thick brush and timber, big stumps. On about twenty acres they had taken out all the stumps and cleared it up and improved it, brush that one could not crawl through when they went there. Apples do not grow better anywhere than there, he picked off of trees his father set out there—now they had been neglected while his father was sick and could not attend to them, and had not been sprayed or pruned—and this spring he cultivated the orchard and pruned them, and he got thirty boxes of as nice apples as one ever saw. The fruit inspector was up there, and he asked him to stop and examine the trees, he was on a hunting trip by the place, and saw them, and the inspector claimed that that land some day was

bound to be the best apple land in the country, giving his reasons, he said that the codling moths and the insects would not bother, at that altitude as they do in the valley on the lower lands. He is familiar in a general way with the other railroad land in that township, and has been over it, ever since he was a boy, since he was nine years old. Their stock ranged over it, and they used to go out after their horses pretty nearly every day. The railroad land there in sections 19, 21, 25 and 27 is really better than this forty acres that his father got, there is better timber on the railroad land in these sections. This forty acres that his father got was the poorest forty out of the 160. He is familiar with most all of the lands west of Ashland, between Ashland creek and the Applegate, and with considerable of the railroad lands in the Dead Indian country, which is east of Ashland from ten to twenty miles. He could not say how much railroad land over there, is involved in this suit. He knows of some there, one particular piece which they call Railroad Prairie, because it is railroad land, it is nice prairie land, good grazing on it, and lays between what they call Glenwood and Lilyglen. He has been out there hunting with parties. Timber in that section he would not call extra good, the timber in that Dead Indian country, some of it, he would not call very good, there is lots of white fir and a good deal of yellow fir that is punky, but there is lots of land there and it is number one. He has hunted over nearly all the Dead Indian country, this one particular piece which they call the Railroad Prairie was about the only piece of railroad

land he could say that he was really very familiar with, in the Dead Indian country. He considers that there would be a quarter section there, or probably more, just going over it hunting. In addition to these specific tracts with which he is acquainted, he is acquainted in a general way with the lands in Jackson County, is familiar with everything, railroad and other lands, except there is a locality out east of Medford in what they call the Butte Creek country, out in there, that he cannot say he is familiar with, but he is familiar with the southwestern part of the county, very familiar with all of that. He has been over it, he could not say how frequently, probably a hundred times, hunting and after stock, ranging over it.

Q. Just step here to the map a moment. This is a map showing by this red line the location of the railroad. There is Medford, here is Jacksonville, here is Ashland, and these sections marked in black are railroad lands. These squares are sections. The squares with the heavier lines are townships. This is section 39-1 east where Ashland is located. And the township west of that, of course, is township 39, 1 west, and so on. I have been referring to Defendants' Exhibit 266. Now, are you familiar in a general way with that part of the county to which I call your attention, and where you find so many lands designated in black as railroad lands?

A. Yes, I am very familiar with all that section.

Whereupon witness testified that he believes that all of those lands are suitable for settlement, a large percentage of them, and in his judgment 160 acres of

that land, when it is cleared up, would support a settler and his family. He does not believe there is 160 in that range there but what it can be cleared up and made to support a family, and that is true with reference to the lands he knows over in the Dead Indian country. He helped his father clear this 20 acres that was cleared on his place, he and his brother and his father did the work, cleared it up, it was heavily timbered when they went in there. It was not good saw timber—some of it was, but there was not enough of it to be practical for saw purposes, but it was good for wood-stove wood. He cut the timber, cleared the land and sold the wood—cleared it up, made the timber into stove wood and hauled it to Ashland and sold it, that is the way he made his living while he was clearing the place. He has taken into consideration the expense and work involved in clearing this land, when he testifies that it could be made useful for the purpose of homes and settlement. The soil in there is granite formation, there is good soil and the average—the soil of the granite all through there would average twelve or eighteen inches of leaf mold, which is formed from decayed vegetation, it is light loam soil—granite formation. There have been several homesteads proved up by settlers in that same general country there, where these railroad lands are that he has indicated on the map, and at virtually the same altitude as his land there. There are no settlers back of him, he is the only settler there in that neighborhood. Up the other road, up Widner creek to the Applegate country, there are settlers back that way,

but he and his father built this road themselves, there was no road when his father went in there, just a little Indian trail. He believes these lands would be settled at once as fast as they were thrown open, if they should be offered to settlers. Withholding these railroad lands from sale by the company has certainly retarded the settlement and development of that country, there is no doubt about it. He knows who owns some of the even numbered sections intervening these railroad lands in that southwestern part of Jackson County. He knows of two or three places, homesteads, which have been homesteaded but practically the timber is cut off, and not much improvements made on them. Some of them they have improved, some they have not, some that has been sold by the railroad company and the timber is cut off. It was bought for timber and not for settlement, it seems.

Q. After the timber is cut off, and taking that land in the condition in which land always is after it is logged off, with the stumps in the ground and the accumulation of branches and other debris resulting from logging operations, and with the smaller brush still standing, I will ask you if, in your judgment, that land would be attractive to a settler, and a settler could afford to go upon the land and clear it?

A. Yes, sir, the majority of it he could.

Q. Now, these homesteaders that have gone in there and have left there, I will ask you whether in your opinion they would have abandoned their homesteads if the

railroad lands had been thrown open to settlement and the country had been settled up, as you have described?

A. I don't think so.

Q. Well now, Mr. Mahan, just explain how the withholding of the railroad company's lands from settlement has interfered with the settlers on the even numbered sections with reference to roads and schools and other conditions of that kind?

A. Well, there is one family that I know of, a man that came there about the time my father did, he bought a man's relinquishment—people of the name of Walter, he bought their relinquishment to a homestead right. That was unsurveyed land. And he moved on it, and built him a house, and made considerable improvements; set out some fruit trees, orchards. He had a big family, he had nine or ten children—I don't know how many. But when the railroad company got this land he moved off, and this particular piece has been sold since to a man named Provost, bought it in the first place from the railroad company, I believe, and the timber has all been slashed off it, and what improvements were there have simply decayed and gone to rack; but it is bought for timber speculation more than anything, I think. It is good land. Now, for instance, if this man that cleared it had been allowed to remain there with his family and improve that, he would probably have been living there yet, and it would be a nice home.

Whereupon witness testified that he has no interest in these lands, no special interest, other than as a citizen.

He did not apply to purchase any of these lands. His father applied to the railroad company for this 120 acres that was originally in his homestead claim, probably eight or nine years ago, something like that, and the company told him it was off of the market, not for sale. He does not know what is the reason the company told him it was off the market, that is what his father told him.

Whereupon, on cross examination, witness testified that he was thirty-three years old, and his father went on this homestead on Christmas day in 1887. By their road which they built to the property, and by the survey, he has heard his father say that the surveyed road was two miles from the Ashland post office, up on the mountain. The elevation at his house is about thirty-five hundred feet, about fifteen hundred feet higher than the post office at Ashland. They built the road from Ashland out themselves, from Nutley street, where they left Nutley street in the city straight to their place, fully a mile and a half of road. He and his father and brother, who were living there at the time, built this road. It was not a county road, they built it themselves, it is still a private road, they built it at their own expense, for their own use. They have no neighbors back of them. Some land has been held back after it has been cut off for wood, but there is no one living on it. His father had a contest with the railroad company as to the whole of this 160 acres, he understood that his father's final proof was accepted, the land was unsurveyed when he settled there, and he offered final

proof after it was surveyed, and it was accepted, but his father claimed that Binger Hermann ruled against him and only allowed him forty acres out of the 160 acres. He could not say that the railroad company got a patent, but it claims that it is railroad land, his father did not get it. His father did not give up possession of it, but has retained possession of it ever since till his death, and witness is still on it himself. His father deeded his rights to witness and his brother on his death, whatever rights he had, and he claims that that 120 acres really belongs to himself and his brother, under the claim which his father made, and has been in possession of it since his father went there, in 1887, about twenty-three or twenty-four years. His father did not fence it all, but had some of it fenced, this 120 acres. He has paid no taxes on this 120 acres. His father cleared up some of it when he had it under claim, he cleared up quite a piece, he could not say how much, but it was a piece around about the house, probably a couple or three acres, something like that. His father cut the timber off of that, and most of it has grown up, some of it is enclosed in chicken yard. He is not cultivating that only a small portion of the 120 acres, just a little corner of it now. He could not say how much of this 120 acres he is cultivating, as he does not know exactly where the line comes, probably there may be half an acre or an acre. The chicken house and buildings and outbuildings are on it. He could not say what this 120 acres is worth today, he has never cruised it, the timber would have to be estimated on it, and the land would have to be

estimated, and he really could not put a price on it, there is good timber on it—good wood timber, all of it. He would say that it would cut probably fifteen hundred cord of wood on this 120 acres, wood is worth one dollar a cord stumpage, which would be fifteen hundred dollars for the wood that is on it, and then the land after the timber is cut off, is worth more than the timber, after it is put in cultivation and cleared up, and would be worth at least fifteen hundred dollars more, and he believes that would make that 120 acres worth about three thousand dollars. His improvements are not on this 120 acres. He has no picture of the timber, he has no other picture besides this Government's Exhibit 124, showing the timber that is on this 120 acres, these are just some photographs his wife happened to have when he started. Handing counsel a photograph, witness says that that is another view of the house, taken right back of the house, that is part of that probably. That is practically all, he has no picture of the timber. There is a couple of photographs of a mining tunnel. His father had a mine there, but that is separate land. The railroad company never claimed that forty. The title lays between witness and his brother and the Government on that. He did not pay the railroad company \$2.50 an acre for that, the company never claimed that against his father, his father contested the company on that and it never claimed the land, it abandoned it to him and gave it up, it is a quartz mine, one has to dig down into the earth to get it. They have got in one tunnel about four hundred feet altogether, and a

shaft about fifty feet, his father has milled sixty ton there from that upper tunnel that netted him \$31.43 a ton in gold, and has taken out sixty tons which netted him that, and has taken about \$1200 worth of gold out of this mining claim after paying all expenses. They put it all back in the mine in development work and they are still developing it. Witness ran 150 feet of tunnel last winter, that cost him about four dollars a foot, and he did the work himself and one man with him, and furnished the powder. The mine is practically a prospect, they are developing, showing it up, and they cannot put any price on it. They are going ahead all the time developing it.

Q. When sixty tons brings \$1200 it is more than a prospect, isn't it?

A. Well, if we get enough of it, yes; if we get enough of it.

Q. That is a mine, isn't it?

A. Well, a mine is a large body of ore in sight, something you go up and put a mill on it. You put a mill up on sixty tons today, and tomorrow you haven't got anything.

Q. You don't think that is a pocket?

A. No, we have a true fissure vein, five feet between the walls, and we have cut it the full length of the vein.

Q. That is considered a good mine, isn't it?

A. That is considered a good prospect to make a

mine, yes; but it takes lots of development work to open it up.

Whereupon witness testified that one had to have money to put in a quartz mill, things of that kind. The description of that forty and the exact numbers—it is adjoining this other, section 17, township 39 south, range 1 east. The Ashland Reserve is back of this in the neighborhood of three miles, and there is timber all the way back of him. He does not know how many acres there are in this reserve, but there are several thousand acres. Referring to Government's Exhibit 124, there is fir timber shown to the right in the picture, that lays on their mining claim, that is small timber, which will average about twelve or fifteen inches in diameter, practically second growth. There are some heavy trees in it, that one can see there, some very large timber in it, and there is second growth in the picture that will average about twenty inches, that timber was pretty small when he went there, it has grown certainly since then.

Q. Now, over in the distance, that is, looking over beyond Ashland, over the hills, the bald hills on the east side of the valley, isn't it?

A. Yes, that is looking east.

Q. Looking east?

A. Looking across the valley.

Q. Those are bald hills over on that side mainly?

A. That is Grizzly over there.

Q. That is bald, isn't it, mostly?

A. There is timber on the top there back of Mount Grizzly.

Q. There is some scrub timber, little scrub trees?

A. There is some good timber there too.

Q. After you get over the ridge?

A. Yes, on the top, and over on the other side. On this side there is no heavy timber.

Whereupon witness testified that Provost, whose initials he does not remember, bought some land there, he thinks Provost came out to Ashland some twenty years ago, from Yamhill County, and bought some railroad land, and some other land for timber that was on it, and cut cord wood and stuff of that kind to haul to Ashland, and was in the wood business, and after he cut the timber off he sold the land, he did not cut all the timber off, they are still cutting timber off of it now. He has not sold any of the land that has been entirely cut off that he is familiar with, at least he does not know that he has. Provost has sold it all, has sold the land, and it has changed hands three or four times since then. He believes Provost owned two hundred acres that he bought there. They are not farming it, except a small portion, he does not know how much, but he has been there, but the people that have been living on the corner for the last year or so, are farming some of it, he does not know how much. They have only the work outside, and haul wood to town, but they have really discontinued hauling

wood. Another man had a mortgage, he thinks, and he has taken over this land on a mortgage, this little piece of land, this two hundred acres. It was first bought by Provost, who sold it to Phipps, Phipps sold it on terms, and they couldn't make good and gave security and lost it. He took a mortgage some way, and turned the mortgage over to a man by the name of Hodson, and Hodson practically has the land, they did not make good on it. They bought it to pay out on it and they did not pay out on it, they threw it up. He knows something about Railroad Prairie over in the Dead Indian country. There is about a quarter section, more or less, he would judge, it was about twenty-five miles east of Ashland, but he does not know what township and range it is in. He was over there hunting—and was over there once after a cow he bought, he bought a cow and went after her, over the range, to get her, six or seven years ago. There is lots of white fir around that prairie that he does not consider good, and lots of yellow fir that is punky—doty—he does not consider it very good. He does not know who owns that timber now. They call it Railroad Prairie because it belongs to the Railroad Company, and he knows there is lots of good prairie—glades rather—big glades. It is good land, lays nice, this Railroad Prairie. There is one party there in his neighborhood, back of him, by the name of Connor, or Cotton, who homesteaded a piece and put in a saw-mill and cut timber off for saw mill purposes, and sold it since, and the people who have it now are using it for wood recently, they have cleared up some of the land on it. In fact,

Cotton originally cleared up quite a piece, quite a lot of trees, he was killed, a man named Messenger shot him, and his widow disposed of the place, and the place has practically gone to rack since then, practically gone back into the wild since. They logged off the land for saw-mill purposes and wood, and then moved away and it has grown up again. He does not know of any homestead people back in there who have sold their claims to timber people for investment, none that he knows anything about. There is no one living back of him, between that and the reserve, that is all in the timber. He has about twenty acres cleared, practically had it all set out to orchard at one time. Last spring he set out one hundred young trees more, and he has a lot of trees ordered to set out this fall, he has trees all over this, scattered all over it like an orchard, he might say there are ten acres in orchard, there would be in the neighborhood of ten acres bearing, he has never surveyed it, he does not mean that he has ten acres of apples that are bearing, he has about fifty or seventy-five trees coming into bearing, they are Newtowns and Ganos and some Ben Davis and some Spitzenbergs. He has about seventy-five trees of these kinds of apples coming into bearing, apples today that are marketable. He picked thirty boxes off of them this fall, and has them in his basement at home for his own use. He does not know what apples are selling for at Ashland this year, apples like those would bring the highest market price because they are free from any blemishes. They were not hurt by hail like all the apples in the valley were, that is, hail damaged most all the ap-

ples in the valley this year. They are not bothered with frost as much as they are down below, he had some tomato vines that were green when they were killed in town, the frost seems to miss the high land, and will settle down on the low land, they do not have the fog there, and that is one reason for it, that they have in the valley. He does not know the Burrell or John Olwell orchards at Medford by that name, but he knows a large number of fine orchards between Medford and Phoenix, on the right hand side of the railroad as one goes south, and these lands down there are nearly all in bearing trees. He claims his father's right to this 120 acres of that railroad land, and they are entitled to it, they have spent their life there making it their home, improving it, and built a road to it, and he does not think they would give up possession if they were asked to do so.

Q. Well, your father thought that Binger Hermann had wronged him in favor of the railroad company, didn't he?

A. Well, that seemed to be my father's opinion, yes.

Q. And you are of the same opinion, too?

A. Well, no; but we have made it our home, and we have gone to a great deal of expense to build a road up there.

Q. I understand, and you don't feel very kindly over the action of Mr. Hermann?

A. Well, no; no, I really—I don't know anything

about it. I am just in my father's—father said Binger Hermann ruled against him. That is as far as I know anything about it.

Q. But you are going to get that 120 acres if you can?

A. Yes, sir, that is a fact.

Q. Now, I suppose you mean that this land is suitable for agriculture, this railroad land that has timber on it, after the timber is removed?

A. Well, there is lots of it that can be cleared up that it hasn't got much timber on it.

Q. I am speaking now of that that has timber on it.

A. Timber on it?

Q. You would have to take the timber off it before you could plow it?

A. Certainly, it would have to be cleared and grubbed, certainly.

Whereupon, on redirect examination, witness testified that his father set out these fifty or seventy-five trees that are bearing, about six or seven years ago, something like that, but they have had no care, they were set out and stock has run on them, and they have been neglected because his father was sick all that length of time. He was an invalid on the flat of his back, in the hospital most of the time. This spring witness pruned them and plowed them and cultivated them, but did not spray them or anything like that. This is not the first year they

have borne fruit, they bore fruit about three years ago. His father got apples off of them when he was up there the last time, but they had been neglected since. Witness took out a lot of them that the gophers had eaten off, they hadn't had care. He took them out and set in new trees—left the best trees. He set out this year in the neighborhood of one hundred trees last spring, and has there something from one hundred and fifty to one hundred and seventy-five trees, more than that all told—he has two hundred trees, good trees, there are more than that, but there are two hundred that are good trees. He set those trees out to grow apples for his own use as well as to ship and sell. He also set out strawberry plants—five thousand strawberry plants last spring—and they are doing well, finest in the country, and he expects to have two or three hundred crates of strawberries next year off of them. He is preparing to set out more this season. They used to have a very fine strawberry patch there, and one summer they sold four hundred crates of strawberries off of those, at \$1.50 a crate. They came on the Fourth of July, when the others were all gone—there was a big demand for them. A little later they would come on when the market was the best. They all ran out for the lack of care and attention, and he plowed out the patch last year and set it in alfalfa last spring, and set out another patch. Alfalfa grows up there without irrigation, they cut three crops a year. It can be watered, all that land there has mountain springs and streams, there are springs on all of it, there is hardly a quarter section in there but what there is water—by

building a small reservoir one can get water on a great deal of it. It is his intention on this place to build a reservoir, in fact, he built the ditch last spring, he has the ditch dug, but he did not have time to build the reservoir. From his experience there and observation of the results, in his judgment, that land up there where he is, would ultimately be as good fruit land as the land in the valley, and for some fruits it is better, for apples it is better, it is a little high for peaches. They had some peaches this year on their trees, but he don't know—their peach trees are young—but he believes it is a little high for peaches, their pear trees are fine, they have a few pear trees and plums, pears and plums never fail to bear.

Whereupon, on recross examination, witness testified that there are some little apple trees shown in the picture there. The main orchard lays down on the other side of the house, that is an apple tree and that is an apple tree—pointing to the picture. Those apple trees were set out about four or five years ago. There is a tree right there, just a few days ago he picked two boxes of apples off that one little tree, which his father set out, he would think, about seven years ago, it is a red apple, he does not know what it is, but it is a nice apple. Some of the trees have died out in the open there, they were set out in rows, but then they have died out, there are little trees which he has set in there that don't show up, the trees died out for lack of care, and the stock beat them down, the stock got in on them. His father was sick and witness was not on the homestead at the time. Down below the barn he has a nice lot of trees, good sized, the barn is

on a little lower ground.

Whereupon S. N. WARFIELD, called as a witness on behalf of complainant, being duly sworn, testified, that he is forty-three years old, resides at Corvallis, Benton County, Oregon, and has been living at Corvallis ever since December 7, 1910, was born and raised in that county. Before coming to Corvallis he lived in Alsea Valley, was born in that valley in Section 7, Township 14 South, Range 7 West and has lived in Benton County all his life. His father was a farmer and homesteaded 160 acres, and then purchased 69 acres from the railroad company, and first moved on to a piece of railroad land, and after the surveys were made discovered that he was on railroad land, about a quarter of a mile too far on the north from his homestead line, and he then moved to the homestead. Witness was six years old when his father moved on this homestead, and recently after that his father purchased from the railroad company this other 69 acres, after proving up on his homestead, he moved back to where he had first made his improvments and his orchard. His father took up and moved on to his homestead about 36 years ago. His father intended to take a homestead there, but instead of getting the subdivisions that he intended to take, got off the line on to railroad land, and when he discovered the mistake, when the survey was made through there, he moved onto the land he intended to cover in his homestead settlement, and proved up under the homestead law. He does not remember how long it was after that, that his father purchased the railroad land, but he remembers

that he made his payments by instalments in ten years, and paid \$1.25 per acre for the land. He could not say exactly the date his father bought that railroad land, but he knows it was recently after they moved onto the homestead. He purchased that about that time and began to make his payments about the time they moved on to the homestead, that was when the state school lands were selling at \$1.25 an acre in Oregon. The homestead was principally bench land, he would judge there was about six acres in the bottom and the rest of it was what they call bench land, and this up-land, sort of rolling. His father lived on the homestead for some twelve or fifteen years, and his father's family lived there until they moved back on to the piece that had been purchased from the railroad company, and they are still living there, his mother is, in fact, his mother and one of his brothers are still on the place. They had a family of nine children and his father made his living in the farming business right there, all the time, on the place. Witness never left his father's home, his father died when witness was 18 years old, and he was the oldest one of the boys, but had a sister that was older than he was. The rest of the children were all younger, so he lived on the place and ran the ranch until he was married, and then he purchased a forty, right adjoining that, and lived there until he was elected county recorder and moved to Corvallis, lived there all the time. His house was within one hundred yards of his mother's. He managed and was really the head of the family ever since his father's death. That 40 acres that he purchased there was covered with brush

and timber, with the exception of about three acres, there was about three acres of cleared land at the time, that was a little burn when he purchased it. He has been engaged in farming his own place and that of his mother. He went to work and slashed that off, and has grubbed and cleared up a good portion of it now, and has cleared about 25 acres of his 40 acre tract. He raised wheat, oats, vetch and some clover on his father's farm and on his own farm. He raised corn, potatoes and all kinds of garden vegetables of all descriptions. Grapes do well, and they raised grapes, apples and pears, and they have a nice orchard now on the place. Referring to the Alsea Valley, he would not hardly be able to say how much it covers, on account of the way the river runs. Really the principal part of the valley lays in three sections on what they call the south side of the river, and then the North Alsea and the South Alsea; but it covers, he should judge, a township and a half or more. Practically using the watershed, there would be two, or three, or four townships there. In referring to the Alsea Valley he does not have reference merely to the bottom lands along the Alsea River, because he thinks there are many people living on the upland there, and he includes the benches and hill land as part of the Alsea Valley. That area taken in a township there, and extends from the river up and includes the benches and hills that were there. The valley practically is only at the widest place, he should judge, not more than a mile and a half wide, something like that. Along the Alsea river there have been settlements there for a number of years. The soil

of that bench land is really some of the richest land that they have, the soil is very deep, in fact, that bench land is where the large fern grows. Fern grows there probably eight feet high, lots of them, and where that large fern grows there is really some of the deepest soil that they have. He has cultivated this bench land, and it is productive soil. This bench land, with reference to the bottom land, lies higher. On their homestead, they farmed some 20 acres of bench land on the hill, and it was so steep they couldn't cut it with the binder, they used to cut it with a cradle, his father used to cradle it, and he has bound after him at different times by hand. He used to cut with a cradle, he and his neighbor, Mr. Steeplow, used to cut that with a cradle all right. Bench land and hill land are the same, he thinks it would be what one would consider either bench land or hill land, because what they call the hill is the rolling land, in fact, where it does not rise too high, because otherwise they would call it mountains. There are only two or three places they call mountains there, what they call Prairie Mountain and Grass Mountain, something like that, otherwise they would call it bench land or hill land. When he refers to bench land, he means hill land, the upland off the bottom. He does not mean table or level land, but he means the rolling land on the foothills. There are different people living in different sections that have different definitions for bench lands. It is rolling land, with a little flat on the top here and there. He has been engaged in farming in this country that he has spoken of since he was old enough to farm until

he was elected recorder and moved to Corvallis two years ago. He is acquainted with farming conditions in Benton County. Referring to Defendants' Exhibit 259, he notices the town of Alsea marked there, and the other markings thereon, pointing to the North Alsea and South Alsea, state that they are really the Alsea River, as they call it over there, they call one the South Alsea and the other the North Alsea. He is acquainted along Mill Creek, which is in Section 7, Township 14 South, Range 8 West, and right in there is the homestead and then a little further they had 69 acres there, in fact, he is acquainted with all of Township 14 South, Range 8 West, and the south half of Township 13 South, Range 8 West, and all of Township 14 South, Range 7 West, and he is well acquainted with Township 13 South, Range 7 West. His father's homestead is situated in Section 18, Township 14 South, Range 7 West. There is some timber in Township 14 South, Range 7 West, some very good timber, and there is a lot of it that has no timber on it at all, but is covered with some hazel brush, some little fir and there is some vine maple and cherry. He would think that he could tell what areas contain merchantable timber better from the sections. There is a portion of Section 9, and the north half of the north half of Section 11, and Sections 3, 17, 35, some in 25 and some in 19. In fact, there are not very many good sections in that township of timber. With the exception of these sections just mentioned the growth of timber is not heavy there, in any of those sections. The character of

the rest of the sections as to timber is that it is more or less scattered, open, and in fact, open bench, what they call open glades there, and there is lots of it that has nothing on it at all, just some little scattering brush. That township is what they call hill land or rolling land, principally rolling land. There are settlers living in that township on the even sections, every even section in that township is taken with the exception of the south half of section 20, and there are three quarters in section 32, he believes that is all but what is taken in that township. The character of the lands that are not taken there is rather rough and pretty steep, and is the poorest land in the township. Section 30 is not taken in that township. These lands were taken by homesteaders. They are living there and have proved up on their places. In fact, none of them have been sold to any companies. There are several sections of railroad lands in these townships there that would be just as good as a lot of that that has been settled heretofore, there is no difference between the odd and even numbered sections, the numbering makes no difference. The unsold lands of the railroad company remain practically intact as shown on this map, except for the few yellow markings and a few blue markings. They are as suitable for settlement purposes as the homesteads that have been taken up there, with the exception of some right along on the Alsea river which were taken in the early days, meaning adjoining the even numbered sections. He is acquainted with the railroad lands in Township 14 South, Range 8 West, and there isn't very much timber in that

township, in fact, there is but very little good timber in Township 14 South, Range 8 West, with the exception of Section 32. He does not think there is an even section piece of land in that township but what is taken, except about three-quarters of a section not taken. There are homestead settlers occupying the even sections in that township, sections 22 and 28 in that township are all homesteaded now, except there was one timber claim in section 28, the rest of it is all homesteaded and homesteaders are living there, and that is not as good as sections 23 and 15, which are better sections than those taken, better than the even sections there. Generally speaking the adjoining lands there in that section through that township, are of the same general character and formation,—the even and odd sections. He is acquainted with the south part of Township 13 South, Range 8 West, which is rough, in fact, it is what they would call the roughest land, about the roughest land in that section of the country there, that is further back from the Alsea river, and the ranches up on what they call Grass Mountain, which is, he should judge, about 3,000 feet high. Section 31 in that township has got some good land. There is a good portion of it that is covered with vine maple and cherry and soft maple, in fact, there are homesteads right adjoining that same township, that is underbrush more than timber, there is very little timber on it. There are settlers on the other even numbered sections, but not on all of them. Section 21 is principally all open, in fact, that was grazed two or three hundred head of cattle grazed every summer on

that. Section 20 is principally all open land, with the exception of one quarter section, the rest of it is all open land. Section 16 is all open and 22 is very nearly all open, it is in a burn, 22 is pretty badly burned. The north half of 22 has some tolerable fair timber, but the rest is all open. Section 27 is all open with the exception of the southwest quarter, it has some very good timber on it, the rest is all open land, in a burn. Section 36, part of it is farmed at the present time, there is a portion of 35 that is being farmed at the present time, it has been sold. 36 is a school section and 35 is a railroad section. There is not a heavy growth of timber in there generally through that township, except in the places he has mentioned. There are but a few sections of timber there, the south half of section 28 has a good growth of timber, and section 33 has one good quarter of timber. If the timber were removed, on the land he has mentioned, not very much on that up there could be cultivated, but it would be excellent grass land. There would be some of it that would be very steep, which would prevent cultivation there. There is some land in section 31 which could be cultivated, and quite a lot of Section 21 could be cultivated, only it is a little high for crops, about 3,000 feet in altitude. There are settlers residing in some of the even sections there, and also some cultivation of them. In section 6 it is all taken, in that township, there isn't but very little of it up there that is cultivated. The title to a part of these even sections has passed from the Government. The township generally is not very valuable for timber, with the exception of just a portion

of it. In the township, he should judge, there would not be more than one-fourth of the south half of it that would be valuable for timber at all, the rest is all open land. He is not much acquainted about the post office or town marked there on the map, Harlan. North there is the wagon road grant, the Yaquina Bay wagon road grant. He does not know just how wide that was, but thinks it was about a ten mile grant, but he is not quite sure of the width of that grant. The grant has been divided into small tracts and is being sold to settlers now, he could not say just how long settlers have been purchasing that land through there, he knows there have been several transfers since he has been in the office there. He has been up over that summit over the wagon road and also on the railroad, there are settlements all the way across on the road. They raise grain, vetch and dairying, goats, cattle and sheep up there, it is similar land to the land in the grant over south there. He is acquainted with a portion of Township 14 South, Range 6 West, not so well acquainted with that as he is further west, because his trading point is on the road to Corvallis and also to Monroe, and across over the county road running from Alsea to Monroe, and also to Corvallis. He is not very much acquainted in Township 13 South, Range 6 West. The lands he is acquainted with in Township 14 South, Range 6 West, are about the same as the lands in Township 14 South, Range 7 West, that is getting closer to the Willamette Valley. There is some good land right on the divide between Glenbrook and the south fork of the Alsea, there is a rich

dividing ridge between them. He is acquainted with some of the specific sections in Township 14 South, Range 7 West, and is practically acquainted with most all of them, it is open land, and can be cultivated after any timber or growth that is on it is removed. In Section 19, Township 14 South, Range 7 West, there is a portion that can be cultivated. The county road runs right through it. There is some good land, what they call bench or rolling land there, in fact, it is not steep at all, it could be easily cleared, and there is lots of it that has nothing on it only now and then an old snag, or a little hazel brush, or something like that. In Section 21 there is some good land, the northwest quarter of Section 21 has some good land, and it is practically level, the north half of Section 15 is all open land, there is no timber on it. The south three-quarters of Section 11 is all open land. Section 23 is principally open, and a portion of 27, though 27 is considered pretty rough, it rises up on the mountain. Section 19 has some good bottom land on it, in fact, his brother cultivated one forty there for six or eight years, or a portion of one forty. That is railroad land. He tried to buy it and the company would not sell it, so he continued to cultivate it, he fenced it for the company and cultivated it, that was in Section 19. Section 31 has some good land. Principally 31 and 37, and the north half of five, and portions of 33, are more adapted to stock raising than for agricultural purposes, there is a portion which would be good for agriculture. By agriculture he means tillage, plowing and sowing of grain. He has mentioned some sections which

had timber on them, and thinks that that which has timber on it would be just as good as the other for agriculture after the timber was removed and the land cleared. Section 19, where it has some of the best timber is some of the best land there is there. There is one hundred acres in one body there that is practically level, just a big level bench there, which is pretty well covered with timber. This 40 acre tract his brother tried to buy from the company, applied to purchase seven or eight years ago, and the company told him at that time that it had not placed a valuation on it and that when it placed a valuation, it probably would talk business with him, and before the company placed a valuation on it, it was taken off the market. His brother has applied to purchase it since then, within the last four years, and the company replied it was not selling the land, and that it was not for sale. In Section 5, Township 14 South, Range 7 West, there is probably 100 acres that is what is called Austin Howell flat, a big flat there, which is practically level. One can drive a wagon and team over all of it, and with very little work that could all be put in cultivation. In Section 23, Township 14 South, Range 7 West, there is what they call the railroad flat of 60 acres, that is practically as level as this floor. It is all just now and then scattering timber up on the benches, and could be cultivated, in fact, the land right by the side of it, is being cultivated up above. There is a ranch of 160 acres right by the side of it, and it was taken up three years ago, and was sold a short time ago for \$3,500, right adjoining, the same kind of land. This 160 acres

adjoining this Section 23 was sold this spring. Section 21 is good land, there is a lot of bottom land in Section 21 that is covered with cherry and vine maple, there has been an application made for that. A fellow went to work and built a house on it, but finally abandoned it on account of not being able to purchase that. This was within the last six or eight years. He does not know what reply was received to the application. This man did a little slashing and built a house on that, and the railroad company refused to sell. This tract was on the bottom, there was vine maple and cherry on it, there could be 25 or 30 acres rendered tillable easy enough, it is right on the river, on what they call the Salmonberry stream. In Section 29 there is some good land, a man by the name of Roland improved some of that in there and built a house, but on account of not being able to secure title to it he had to abandon it, this was within the last seven years. Roland tried to get 80 acres of this railroad land. He probably could have gotten 15 or 20 acres of tillable land by clearing, out of that 80, on the little creek there. There is Section 17, Township 14 South, Range 7 West, which has been sold by the railroad company. Section 7, Township 14 South, Range 8 West, has a lot of open land. The west half of the west half of Section 7, Township 14 South, Range 8 West, is practically all bottom land. The railroad company sold that a few years ago to a man by the name of Chastine, who made a couple of payments and was not able to complete his payments and let it go back to the company and forfeited his contract. He could have

cultivated and made tillable at least half of that land. It lays right on the Alsea river bottom, right along the river, this man agreed to pay three dollars an acre for it, this must have been about 13 or 14 years ago that he entered into that contract. Section 15 has very little timber on it. Section 15, Township 14 South, Range 8 West is what they call principally rolling bench land, these open glades and benches, quite a portion of that could be cultivated, also Section 11 has a lot of land that can be cultivated, that is all in Township 14 South, Range 8 West. In Section 5 there is very little land which he would consider tillable land, some of it is a little steep, it is principally open, but a little steep. The soil is very good soil, but it is more adapted for grazing than for agriculture. They cultivate some of that steep land there, they cradled land adjoining this Section 5. In 14-5 there is a man by the name of Strake who bought 40 acres out of that section and has a nice orchard there, he and his family are living there on that place and he has cultivated land so steep that he had to mow it and then he was not able to put his team on it to haul that off, so he fixed it up and shoved it down the hill with a pitch fork, down to the road, where he could get it into his wagon. But he grows vetch there as high as a mans' head on that hill. He can slide his crop over his land, but he cannot drive over with his team, that is, with a wagon, they manage to plow that land, but it is pretty steep plowing, he had to plow it down hill, he can use a plow on it, but could not run a wagon or two-wheeled vehicle, he could not plow but one way either,

he had to plow around those knolls. Some of them have reversible plows, hillside plows, and they will plow through and reverse and go back again, reversing the mold board on it. A portion of Section 3 has some good land, the north half of the north half of 3 is not very good, in fact it is too steep, the greater portion of it would be too steep. There is some little timber on it, but there is some good land right in on the bottom, on what they call Schoolhouse creek, that has some good land on it. A man made an application on that a few years ago by the name of Taylor, and he failed to make his payments and it reverted back. He could not say what he did agree to pay for it at that time, because it has been some 15 years ago, most of it at that time was about \$2.50 an acre, that is about 15 years ago since he made application for the land, he could not say when that land was forfeited. Section 31, Township 13 South, Range 7 West, has a lot of open land on it. There is a very little open land in Section 13-7, with the exception—that is, that would be suitable for tillable land, the northeast of the northeast part of the township would be more adapted to grazing than it would be for tillage, that is in Township 13 South, Range 7 West, there was a heavy burn there a few years ago. There are some settlers in there. Recently, this last fall, settlers have moved in there, they have applied to the county to build them a county road in there and the county has already sent the county surveyor to survey it. There is a great demand, he thinks, for lands for settlement purposes and there has been a number of people in the office inquiring

for land that they could get, as much as ten or fifteen acres which they could use for cultivation. Practically this land that these settlers went in on in that north-western portion of the township there, had no value except for farming, agricultural and grazing purposes, there is no timber value there. That is not nearly as good land as some of the land that he has mentioned, and it is not so handy, accessible to get to, there is no road to it. There is no road running through there, but those sections he has mentioned, there is a county road right past them, or running through them. He does not know but what he has pretty well gone over a good portion of the townships, or sections there, that he is acquainted with, there might be some, but it would be scattering, so far as he knows now, that would be all of it.

“Q. Mr. Warfield, what has been the effect of the railroad company’s failure to fulfill the conditions of this grant and sell this land to actual settlers in tracts of 160 acres, on the community there in which you are acquainted?

A. Why, I think it has retarded the country a good deal, on account of settling up by settlers, because there would have been many that would have been able to have gone on to this land and made homes there, for there are people making homes at the present time on land no better, and some not as good as a great portion of this land that is idle at the present time.” ’

Whereupon witness testified that this hill land as compared with the valley land is the best fruit land that

they have, and the reason for that is, that it is considered self-drained land, and not only that, but where this large fern is, the soil is more porous, and is more adapted for fruit raising than what it is on the lower clay or sandy soil, it is the best fruit land that they have. The trees are not infected as much with disease and pests in the hills as they are in the valleys, in fact, they are not affected in the Alsea valley anything like they are in the Willamette Valley, but very few pests in that section of the country. The farmers there in that section of the country that he is acquainted with have lots of goats. He has never raised any goats, but his brother has been in the goat business for a number of years, and is at the present time, he has something like 100 head and has run as many as 250 head. Goats are a productive animal from a financial standpoint, in this particular, on this tract he mentioned awhile ago, his brother homesteaded 160 acres adjoining that, and the river being not far from his house there, and he had a large foot log across the river, and he would put the nannies on one side of the river and the wethers on the other, and the last winter that he had goats in on that place, the wethers were never fed a bite from the time he sheared them. He said he salted them a time or two, but he made no provision for winter feeding. The climate is not severe in that country. The country is adapted to goat raising, they do well there, goats are palatable as a food, and besides they get the increase and the wool, and he considers a goat just as good as a sheep. Whereupon, on cross examination, witness testified that his father and mother

were married in the Alsea valley, and settled and made a home there about 45 years ago. There were a few settlers in the Alsea country at that time. The Alsea River empties into the Pacific Ocean and gets to be quite a stream by the time it reaches the coast, it has two prongs near the post office at Alsea, one the North Alsea and the other the South Alsea, and that heads in the Coast Range Mountains. These homes about which he has been speaking are all of them on the west slope of the Coast Range. There is a portion of this cleared land where there has been a big burn, which was there 50 or 60 years ago according to the traditions of the community. The town of Alsea, he would judge, has some 25 or 30 houses, three stores and a post office. There is no saw mill at the village there, but there is a saw mill in the valley, there is one not far away. He should judge that the Alsea Valley is from a mile to a mile and a half in the widest places. It does not widen out into tide land as it gets towards the ocean, not from the Alsea Valley. From the Alsea Valley down to the head of tide water it is narrow, and one might say, one farm after another along down the river. It is not wide down there. There is no tide land until one gets down on the Alsea Bay, there is not much tide land around the Alsea Bay, but very little. Alsea has had 25 or 30 houses within the last year or two. The Alsea Valley has not been isolated and cut off by itself there over the Coast Range, away from Corvallis and the valley before the last ten years, more than now, only within the last three or four years they have made more improvements in the roads. They

do not raise the amount of grain in the Alsea Valley that they did twenty years ago. They turn it to stock raising and dairying. It is a clear stock and dairy country. These settlers that he says have gone in there on these hill lands have gone in there within the last 15 years, he should judge, with the exception of a few right down on the foothills adjoining the valley, what they would call probably along the river. Most of these railroad lands that he knew of having been sold, with which he is acquainted, in these various townships that he has described, were sold for about \$2.50 an acre. These people who have applied to purchase in the last seven or eight years, have just applied for their prices, there are some of them who have made offers higher than \$2.50 an acre for the lands. There were a number of these people living in the valley there who were bona fide applicants, but they were not attempting to get this land for \$2.50 an acre under this Act of Congress. There is one man in beyond, by the name of Spencer, who has been living on a place there for 25 years before it was surveyed, and when it came to be surveyed, the railroad company got part of his house and a good portion of his orchard, and he made application to them, and then they would not sell to him, they have not put him out of his house, and he was living there, it was a homestead.

Q. You don't speak of that for the purpose of raising a prejudice against the railroad company?

A. Certainly not, not at all.

Q. You speak of that as an incident?

A. Just an incident.

Q. I don't refer to that kind of applicant. I refer to these people that are going out, applying for this railroad land, offering to pay \$2.50 an acre for quarter sections of timber that range from eight to ten million feet to the quarter.

A. Yes.

Q. That is worth from \$5000 to \$10,000 today?

A. Yes, sir.

Q. You haven't any of that class of people over there that are making these applications, have you?

A. Very few of them.

The even sections, or parts of the even sections, are all taken, and title has passed from the United States to them. The principal part of these settlers residing in Township 14 South, Ranges 7 and 8 West, reside on the lands, and in the south half of township 13 South, Range 8 West, there are some who do not reside on these lands. There are not any homesteads applied for, or proved up on, or commuted, in the timbered part of these sections, the even sections, where they do not now live on the land. There were a number of homesteads filed there in Township 13 South, Range 7 West, but they changed from that before they made their proof, and took it under the Timber and Stone Act, in Township 13 South, Range 7 West, where it was suitable for timber. The Timber and Stone Act was passed in 1878. Twenty years ago, of course, there was not the demand for these

railroad lands that there is at the present time. At that time \$1.25 to \$2.50 an acre for these railroad lands would have been considered dear, of course, land values then were less than they are now. There were not the applications at that time, not like there are at the present time. In fact, there was not the demand for that railroad land at that time.

Q. Twenty years ago they could have got that land from the railroad company at probably \$1.50 to \$2 an acre, and it would have been dear at that, wouldn't it, looking at it at that time as it then appeared?

A. At that time it would have been considered, of course, land values then were less than they are now, yes.

Q. I understand, but at that time people didn't want to buy that land hardly at any price twenty years ago.

A. There were not the applications, no, at that time, not like there are at the present time.

Q. Just put yourself now in the position of the railroad company, and assume that the railroad company could only sell to actual settlers, in quantities not to exceed 160 acres, at a price not exceeding \$2.50 an acre, isn't it true, to your knowledge, that from 1860, well, 1870, we will say, up to 1890 there was substantially no demand for that land except a few preferred quarters close to settlements?

A. Well, in fact there was not the demand for it at that time, and I presume there were not as many applications sent in on that at that time so much.

Q. In other words if the company would have been sitting around waiting for the actual settler to come, for about twenty years he would not be coming, would he, even at any price, from 1870 now down to 1890?

A. Of course, I don't know the conditions so much at that time, because that was really before I was at an age to take much interest in land values.

Q. I know, but your knowledge is based upon what has happened since?

A. Yes.

Q. Now, you know that up to 1890 there wasn't any demand for this railroad land of consequence?

A. Not so much as there has been in the last eighteen—sixteen or eighteen years.

Q. Yes, and most of that demand has been in the last eight or ten years? The bulk of the demand for these lands has arisen in the last eight or ten years? That is true, isn't it?

A. More so in the last fifteen years, yes.

Q. Prior to that time though there wasn't much demand for that land?

A. Not so much, no, because the condition of the roads then at that time was not good there.

Q. Well, don't you know, Mr. Warfield, as a resident of Oregon, that the lands in the mountains or in the timber or in the foothills from 1870 up to 1890 were practically unsought for any purpose, excepting

along the streams and in the old settled parts, like your father's place over there on the Alsea? Now, isn't that historically true?

A. Well, to a great extent it is, yes.

RE-DIRECT EXAMINATION.

Q. Now, Mr. Warfield, these people that have applied for land that you are acquainted with, over there in 14 south 7 and 8 west, they were people who sought the lands for purposes of settlement and agriculture, as I understand from your testimony?

A. Yes, sir.

Q. People who resided in that country?

A. Yes. There were a great many that I know of throughout the valley there that made applications for land there.

Q. They were not any timber speculators or people desirous only of procuring timber that might be on the land?

A. Not adjoining what we call the Alsea valley, or tributary near there. Of course, there has been applications on some of the timbered land through there. It has been filed.

Q. What have been the prices asked over there, do you know, in the last ten years on that land by that railroad company?

Mr. Fenton: By the railroad company?

Mr. Rabb: Yes, prior to the time that it was withdrawn from sale.

A. Before it was withdrawn from sale there was, for instance, Mr. Banton, Mr. Wrenn and Mr. Peak and Mr. Sapp a number of them that had settled on some land there before it was surveyed, and the railroad company asked them \$7.50 an acre for this land. That was before it was withdrawn from sale. And so they carried this up—that has been going on now for, I should judge, about sixteen years. They won out here a few years ago.”

Whereupon witness testified, that there were settlers on that land prior to the original survey, the man that the line ran through his house and orchard was D. R. Spencer, who attempted to purchase it from the railroad company, and the company would not sell it to him, that was some 15 or 16 years ago, recently after it was surveyed, when the patent was issued or the survey was made. The survey was made about some 18 or 19 years ago. He was a farmer, engaged in farming that land, and is living there at the present time. The settlements in this country were first made along the roads, which generally followed the rivers, and since that time these settlements have drifted back to what they call the bench lands, the upper land, gone up from the bottom lands on to the hills. He is not acquainted with the demand which was made of the railroad company between 1870 and 1890, not so much owing to the demand, because he has never himself made any applica-

tion for the land, being situated as he was, and not able to go on the land. The only demand that he knew about was such as he would hear of neighbors applying to purchase the lands. In fact he knows that his brother has tried to buy that land adjoining him there, and also a younger brother tried to buy land in Section 23, Township 14 South, Range 8 West, and the company refused to sell that. They wanted that land for agricultural purposes. His brother, as he has stated, cultivated a portion of that forty and improved it. He has testified that one brother applied for the land adjoining his homestead, that was after he had taken his homestead. His brother applied to purchase that land within the last six years. This is farming land, and is the tract he spoke of awhile ago, in what they call the Railroad Flat, it is practically level, just now and then a scattering tree on that, it is what they would call farming land, because it can all be farmed, every bit of it. Whereupon on recross examination, witness testified, that every thing is called a farm over there, every 160 acres that is taken that may some day be cleared, in a way, some of them would call a very small tract, one might say, their farm, because they use that for raising their feed for dairying. It is a great dairy country. If a man had 160 acres, and there were three acres that were cleared, he would say he had a farm, generally like he was speaking awhile ago of the bench land. Whereupon on redirect examination witness testified, that Corvallis is one of the greatest dairying centers in Oregon, one of the largest creameries in the state, outside of Portland, is

at Corvallis. The celebrated Corvallis butter is made at Corvallis, and they have a creamery in the Alsea Valley. Township 14 South, Ranges 7 and 8 West, is more or less used for dairying, they have a creamery in there, they have a stock company and there are 100 stockholders in that creamery. They have a creamery right there and they ship their butter to Portland. They have wagons going out and collecting the cream. This land that he has testified about is generally well adapted for dairying purposes. In fact, the clover grows right on the highest lands there. They raise some of the best clover there is in the valley on that land. The altitude of none of this land is too high for dairying purposes, excepting what he was speaking of in the south half of Township 13 South, Range 8 West, up there in Sections 20 and 21, there was a man drove his dairy cows up there this last summer, and dairied all summer there, but in the winter time the snow gets a little too deep for it to be practical. If he had hay there he could winter his stock there, if he had feed there. These homesteaders up there in the even sections are all making a living on their lands, all that have been in there any time, long enough to get any improvements made so as they can raise feed for their stock.

Whereupon, I. B. SPIKER, a witness called on behalf of complainant, being duly sworn, testified, that he is twenty-eight years old, and the majority of his time he has made his home at Glendale, Douglas county, Oregon, where his folks live. He has lived in Douglas county ten years, and it was ten years ago

when he came to Oregon with his father. His father bought a ranch at Oakland, Oregon, of four hundred and eighty acres, when he came here, it had been an old improved ranch. They cultivated part of it, but used it principally for a stock ranch. It was on the mountain side, on the slope of the mountain side, and they practically used it for stock ranch. They did not aim to farm to any extent on it, only just raise what hay and like of that they wanted for farming purposes. That land was rough, what they call rolling land, it was just kind of on the hillsides, might be on the slope. It was on the slope of the mountain side and it was rolling, and there were draws running through it. There was some timber, what one might call timber or brush on it. Nearly all that country in there, not all of it, but on this place in particular there was young growth fir from four to ten or twelve inches in diameter. His father cultivated about seventy-five acres, raised hay, but did not thresh any, they cut it all for hay for the stock they kept on the place, it was oat hay and vetch. They raised wheat hay, wheat and barley. They raised all the vegetables that they needed, and raised fruits on that land—all kinds of fruits there, apples, pears, peaches, plums and grapes. He does not know how long that land had been occupied for farming purposes exactly, but it had been taken up quite a while ago. There were three homesteads there and his father bought the three of them, and like old Oregonians, they had done practically nothing, only lived there on what was coming in easy, and that was all there was ever done

on it. There is railroad land on the north and south of this place, but he could not say as to the sections because he was never very familiar with the sections. One piece of that railroad land adjoining the farming land that is on his father's place is just like the rest of the land there. It is good black soil, suitable for farming purposes, could be plowed just the same as the rest of it is there alongside of it. There are eighty acres in that piece of railroad land on the one side there, and on the other side he believes there are a hundred and twenty acres, but would not be sure. That is in township 24, he believes, range 6, but could not be sure, he does not know the sections. His father's place is about eight miles from Oakland northwest, and Isadora is north of Copeland five miles by sections, in township 24, range 5 west. He thought it was about a mile and a half west from Isadora, it was on an even section, was homesteaded. The first four or five years they were near Oakland, they lived on the farm there all the time. The map shows some railroad land there that has been deeded. There is some deeded land adjoining the ranch there, railroad land, in section 13 and in several of the other sections there are smaller parcels. In township 24 south, range 5 west, the railroad company has, in section 3, eighty acres, in 29, twenty-eight and forty-one hundredths acres, in 31, two hundred thirty-six and seventy-three hundredths acres, and in 35, eighty acres, that is all the railroad land in that township unsold, as shown by the map. He has been engaged in the farming business and is acquainted

with the farming conditions in Douglas County, in his experience there on the farm. Referring to "Defendants' Exhibit 259," the country right in there at Isadora, where his father lived, he has been over, he has hunted sheep and cattle and the like of that all through that country. Of course, all these corners and sections, he never took any particular interest in them, because that was not interesting to him. But so far as this country is concerned in township 24 south, range 6 west, he has been all over this land and country in that township, he would not say over all the township either, because there might be some of it he had not been over, but take it in general, he has been all through there down to the Umpqua river. The Umpqua river is a pretty crooked river, pointing to the land indicating township, 24 south, range 6 west. He has been over that land sufficiently to acquaint himself with the general formation and character of the soil, referring to the lands just described in township 24 south, range 6 west, and extending into range 7 west, to the Umpqua river as shown on "Defendants' Exhibit 259." He has been over that land a good deal, knows the lay of the land to a certain extent, and what is on it, and what they do in there. He would judge that from 50 to 75 per cent, somewhere in that neighborhood, of that land could be rendered suitable for cultivation, in his opinion, after any timber or any other growths that may be on the land are removed and the land cleared, it is rolling land, it is not level land. That country is not level by any means, but then the majority of people use that

land who have it in shape to use. That land as compared with his father's place is practically just the same. It is all rolling land and the country is practically the same all the way through there, there are hills and canyons. There are settlers on nearly all those even sections in there that are not deeded. There is some of that land which has been deeded, sometimes when some of that land was taken for timber, they entered it under the Timber and Stone Act, and the Timber and Stone entries were deeded. The settlers there have stock, and raise stock and turkeys, and things like that. Sheep and goats are what they principally make their living off of. They cultivate the lands for their own use. Wherever they want lands they need to cultivate, sufficient to get what produce they want from it, for their stock and the like of that, they cultivate the lands and raise hay on them for their stock that they have there, and their garden stuff, and such like that, and have little orchards. They raise any kind of grain that they have a mind to sow—wheat, oats, barley and rye, and have all kinds of fruit—apples, pears, peaches, plums, cherries. That is not a heavily timbered country, it is not what one would call heavy timber, there is a lot of underbrush and young growth which has timber in it, but it is not an unbroken forest, it is not what one would call a solid belt of timber, anything like that, it is spotted, some places there are large trees, and some places there are small ones. In township 32 south, range 7 west, and township 33 south, range 6 west, shown on this map of the lands covered with the green markings,

he is acquainted with that. He has lived at Glendale for the past seven or eight years, that is, his folks have lived there, and he has been there the majority of the time—and he has been around in that country and knows it in general. He does not know it as to any particular sections, to point the sections out, he does not know just how the sections lay. He became acquainted with that country by driving around over the country there, on the wagon roads. He used to drive a livery team there, and drove around that country and got acquainted with it in that manner. He has been around in there some and has a general acquaintance with the lands in those townships. On the creeks, there are lots of level bottom lands, but when one gets off those creeks he will find land that is rolling, and probably little flat places on top of ridges, or benches—he does not know which one would call it—but kind of flat places. One could probably go up a hill a ways, and then would strike a flat or something like that, and on those places, as a rule, there is lots of good soil. One will find little spots in there, probably from an acre to three or four acres, which have very good grass on and the like of that. Then in the burns, where the brush happens to be burned off or something like that, they grow good grass. Around in there, if the brush and timber were removed in that country upon any of this land, he believes 50 per cent would be tillable land if it were cleared up so a man could work it. It is not so rough but what it can be worked. He is acquainted with the lands in township 25 south, range 7 west, north and

west of Stephens, along the railroad track, and he has been along the railroad track several times over a wagon road. A good many times he has traveled over that. A good deal of that land, he notices, has been taken up and was lost to the grant by reason of prior entries, indicated by the yellow markings on this map, "Defendants' Exhibit 259." He is acquainted with these tracts near the railroad that are marked in green, south of Oakland, which is on a hill. There is a divide about two miles and a half above Isadora, which is north. The tract that he is speaking of is south. That country in there has young growth trees, from eight to ten inches through. There is some of that land there which is deeded land, upon which they have cut cordwood and piling and stuff like that. But as to that one piece in particular, he never was on it to his knowledge but then that is what that is, but it is young growth timber, what they call second growth. That has yellow land there in all that township except that tract, showing that the railroad company lost it by reason of prior entry. Now, in township 32 south, range 7 west, there are settlers there, that country is all settled up in there. It seems as though every place that that land is not deeded in that country, there are settlers on it, it seems as though people want to get hold of land all the time. There is no land in that neighborhood that anyone seems to know of that is government land, or anything else that can be gotten now excepting what is in the Reserve. There is some government land, some in the Reserve there, quite a lot of it, there is no vacant land at all,

there might possibly be an eighty or something like that once in a while, but they are very scare. If these lands were divided into one hundred and sixty acre tracts, in his opinion that average would hold good generally as to those hundred and sixty acre tracts.

Q. In your opinion, Mr. Spiker, in these communities that you are acquainted with, what has been the effect of the railroad company's failure to fulfill the conditions of this grant and sell the land to actual settlers at \$2.50 an acre—the effect upon the community?

A. The way the majority of the people seem to think, the way the land is and everything like that, I don't think it would be any doubt but what it wouldn't be but a short time till the large majority of that land would be occupied by people.

Whereupon witness testified that there would be people who wanted to have homes and make a living off of it, and would be willing to settle on this railroad land. At the present time, it is nearly impossible for a man to get hold of a piece of land at a moderate price, one can buy all the land he wants, if he has plenty of money and wants to pay the big prices that land is worth. He believes that it was in 1907 that he made an application to get some railroad land in the Kellogg district on the Umpqua—not on the river. He has forgotten the price of it because he did not get any reply to his inquiry, he couldn't get it. That was in 1907, he believes it was, and he has forgotten all about it. He knows the character of that land and was on it.

It is rolling land and there was some of it that had this young growth fir on, and some had large trees on—trees among it—and then there were some open spots. He thought at the time he was on it that if he had it cleared up, there would be a hundred acres that could be farmed on it. The young growth of fir, grows pretty thick on it. Of course, it is small but it is thick, and to start in with, a person gets that timber cut down and the ground seeded for about five dollars an acre, and it then makes good grazing land, and afterwards the stumps come out easy. It is not good merchantable timber, that young, and take it in that country, the young growth timber is considered worthless on the ground at the present time, of course, there will be a time when it will be worth money, he expects, but at the present time it is a detriment to the country, because there is no pasture land on it, and it is just standing there, and one could not pay his taxes on it if one would leave it standing there, unless one would wait and consider the growth of the timber on it. The increase in the value of the lands would pay the cost of keeping it all right enough, if a man wanted to keep it and had it so he could keep it. There will be a time when it will be worth something all right. He was intending to use that land for a kind of home, and a stock country, it seems like as though everybody figures on stock, there is really more money in stock. Take lots of this bottom land, a man can make more out of it by running stock on it than he can by farming it. He made an application through a lawyer in Roseburg, and paid

him a fee—thinks he paid him five dollars but would not be certain, he thinks it was five dollars he paid him for making his application. There were several of them who wanted to get hold of some land in that country where they would be in there, together.

Whereupon, upon cross examination, witness testified, that the lawyers he applied to were Orcutt and Fullerton, living at Roseburg. He knew how to select the quarter section because they were in there on the land. About that time they were told about this country being opened in there, and they thought they could get some homesteads in there or buy that land, and he and another man went in there and looked it over. The other man was not a cruiser but was a man who wanted to get some land in there too, and they both went in there together. He would judge that this land was about forty or fifty miles, something in that neighborhood, from Roseburg, on the Umpqua. The Umpqua runs together in there, they fork down the other side of Roseburg, and they both empty in together. It was west of the forks of the Umpqua. Kellogg is west from Roseburg. He might have said that it was east of Roseburg, but that was mistaken if he did say so. It was not over on the headwaters of the Smith River, it was in the Coast Range.

Q. It was in about the best belt of timber there is in western Douglas County, wasn't it?

A. Well no, I hardly think so.

Q. Well, it was good timber land, wasn't it?

A. Well, some of it has good timber, yes. There are some large trees.

Q. How much timber was there, saw timber, on this quarter section that you picked out, in your judgment?

A. Well, I am no judge of timber, that is, to estimate or anything like that.

Q. Did you have an estimate?

A. No.

Q. Did you think about the timber at all when you were going out there to find this quarter?

A. Well, not any more than anybody else. I didn't know what we were going to find when we went in there.

Q. Well, most anybody else would have been looking for timber, wouldn't they, about that time?

A. Why, there were lots of people that was taking timber wherever they could get it.

Q. There was a timber rush, as some of the witnesses have said, about that time, wasn't there?

A. Yes, that is about the time there was lots of timber taken.

Q. And they thought they could get these railroad lands for \$2.50 an acre for that purpose among the rest, didn't they?

A. Well, that might have been some people's ideas, all right enough.

Q. Well now, just be square, Mr. Spiker, and tell the real fact. Weren't there several thousand applications worked up there in Douglas County, by Leavengood and Orcutt and the rest of the people out there, and you went in at five dollars a head, and sent your application after you had gone out and found where you wanted to locate? Now, isn't that the fact about it?

A. Well, I don't know as to the facts of the other people; but after this other man and I went in there and looked the country over, why that country is just practically—they talked about very good timber; of course I am no cruiser or anything like that; all I can tell I can tell when I see sticks on the ground, but as far as knowing how much is in them I don't know anything about that.

Q. You can tell when you see a tree that is 150 feet high and 6 feet at the butt, can't you?

A. Oh yes, I know one of those from a small one all right enough.

Q. You recognize one of those from young growth that is six inches at the butt and 25 feet high, couldn't you?

A. Oh yes, I could tell that much.

Q. Don't you think as a simple layman that you could give a pretty good guess whether a quarter section was good for timber or whether it was good for farming, to plow without the timber? Couldn't you tell that?

A. Well, that was owing to how much they would value this timber at.

Q. Well, you wouldn't have to be a blind man to tell the difference between a piece of land that was chiefly valuable for timber and a piece of land that in its present state was chiefly valuable for agriculture, would you?

A. Well, not at the way it would stand, a person could easily tell that.

Q. Did you make a written statement to the government inspector of what your testimony would be in this case—sign a written statement?

A. Yes.

Whereupon witness testified, that he forgets the name of the inspector, and he has not the statement he made with him. He does not remember the description of the quarter section that he applied to purchase at two dollars and a half an acre through his attorneys, but referring to the copy of the affidavit furnished to counsel by counsel for the Government, it was in township 24 south, range 7 west, Willamette Meridian, to the best of his knowledge. He offered to pay the Railroad Company two dollars and a half an acre under this Act of Congress which he had heard about. He does not know that there was any particular value put on that land that he applied to purchase. It was worth enough, in his judgment, so that if a man wanted to make a home, he could make a home in there. It was not worth—it would not be worth in his judgment, at

that time, three thousand dollars or five thousand dollars. One could buy pretty good timber at that time for less than three thousand dollars. He does not know if it was worth two thousand dollars, if he could have gotten title to it. It might have been, if he could have found somebody who would have bought it, it possibly would have been.

Q. I know, it might have been worth \$10,000, depending upon the amount of timber?

A. Yes.

Q. But what was it worth in your judgment?

A. Well, I don't know hardly how to answer a question like that.

Q. It was clearly worth \$400, what you offered to pay for it, wasn't it?

A. Yes, it was worth that much, or a person wouldn't probably have wanted it.

Q. It was probably worth \$1000. You were safe in figuring it worth \$1000, weren't you?

A. Why, I should think it would be worth \$1000. It might be worth more, as far as that is concerned.

Q. Didn't that quarter section have three million feet of saw timber on it?

A. Well, now, I don't know as to that. I couldn't say that, because I don't know.

Q. You couldn't say whether it did or not?

A. No.

Whereupon witness testified, that the young growth was second growth fir, and was thick and stood practically thick on the ground so that there was nothing else that would grow in under them, the young growth shades the ground. He does not think the second growth trees, on an average, would be as high as 100 feet, but would be something in the neighborhood of 50 to 75, and from six inches up to eighteen inches at the butt. He has followed farming as a rule the majority of the time, but he is not in that business now and is not on any farm now. He was in the butcher business at the time he was in Glendale riding around on the roads there, and when he was on his father's farm there about a mile and a half west of Isadora, he was just working on the ranch. His father did not take up that land as a homestead, but bought it from a fellow by the name of Sam Whittaker. His father had 480 acres, and he thinks he paid in the neighborhood of about twenty-one or twenty-two hundred dollars at that time, but would not be certain. That land is now worth probably four thousand dollars. There is about seventy or seventy-five acres in cultivation on the farm, and when his father bought it there was just about the same. Those from whom he bought had never cultivated it, but his father had cleared up some of it, cleared up part of it. He would judge they had cleared up fifteen acres on the place since they bought it, which would make from seventy to seventy-five acres in all cleared. He could not say whether that was an old settled place, he does not think it was a donation land

claim, because there were three different people who owned that land as homesteads. He thinks there were three different homesteads filed on it, but does not know when these homesteads were taken.

Q. It was in the early settlement of the country, wasn't it?

A. If it had been very early, they would have put a donation claim on it instead of taking single claims, would they not?

Q. Not necessarily. The homestead act was passed in 1862.

A. Yes.

Q. About six years before this land grant took effect out there in that section.

A. Well, it might have been settled there for quite a while.

Q. If it was 1862, that would be fifty years ago, wouldn't it?

A. Yes. I have heard them say—I have heard people say in that country that they rode over that country there when this young growth stuff that is growing up all over the country now was all prairies.

Q. Yes, in other words, this young fir has grown up within the knowledge of the white settlers, for the reason that before that time the Indians burned the grass and kept it down?

A. Yes, sir.

Q. And wherever the timber has been allowed to grow, within the memory of white men, in that section of the country, this young fir has grown from nothing up to twenty inches at the butt, hasn't it?

A. Yes, I guess it has.

Q. Within the memory of white men now living?

A. Yes, that is the way I understand it.

Q. Are you one of the interveners in this suit, represented by Mr. Leavengood or any other attorneys?

A. No.

Q. You haven't brought any suit to enforce your application to purchase this railroad quarter?

A. No.

Q. Now, did you ever take a homestead?

A. Why, I filed on a homestead, yes.

Q. Where was that homestead that you filed on, in what section, township and range?

A. It was in township 32, range 11 west.

Q. Is that in a timbered belt?

A. Yes, there is timber in that country in places, like everywhere.

Q. Was this piece of land that you filed on an open farm, cleared land, or was it a timbered quarter?

A. No, there was timber on part of it and part of it was burned off.

Q. Did you ever live on it?

A. Yes, sir.

Q. Are you living on it now?

A. No, sir.

Q. When did you file on it?

A. I believe it was in 1906 when I filed on it.

Q. Did you make final proof?

A. No, sir.

Q. Did you let it go?

A. Why, they returned my filing. The railroad company returned my filing. It was on railroad land.

Q. You mean you applied to purchase a railroad quarter?

A. No, it was not to purchase—I filed on it.

Q. How do you mean you filed on it? How could you file on it?

A. Well, I don't know as to that, but they accepted my money, and kept my money for about two or three years, and then returned it to me.

Q. And you kept the money?

A. Well, when they returned it to me, why shouldn't I?

Q. Do you still claim the land?

A. No, sir.

Q. So the trade was off?

A. Yes, certainly.

Q. Did you offer them \$2.50 an acre, when you made this filing, as you say?

A. No, it was supposed to be filed on there at that time. There was no offer made at all for it. It was filed on.

Q. How do you mean filing? What did you do to file on a piece of railroad land?

A. Well, there was I and there was a couple more boys; it was unsurveyed land when we first located it.

Q. Unsurveyed?

A. Unsurveyed land; and we went in there and we settled in there.

Q. What do you mean by settled?

A. We went in and made our homes and improvements in there.

Q. That is you took along some coffee and provisions and bacon, and you stayed all night?

A. Well, the necessary stuff for a man to live on in there.

Q. Yes, for a day or two?

A. Well, I guess it was more. I put in the majority of my time for two years in there.

Q. Settling on this piece of land?

A. Settling on that piece of land, which I thought was mine.

Q. I see. Well, what did you do now on this quarter section? Just tell us?

A. Well, I had my house built there on it.

Q. How big a house and what was it out of?

A. It was a house about 14 feet square—12 by 14.

Q. Built out of shakes?

A. Built out of logs.

Q. Built out of shakes that were made there?

A. No, sir, it was made out of logs?

Q. Well, you covered it with shakes, didn't you?

A. Yes, I covered it with shakes.

Q. Made right off the ground?

A. Yes, sir.

Q. Did you furnish it?

A. Yes, sir, we had our stove and our beds.

Q. Did you have your wife with you?

A. No, sir, I am not married yet.

Q. Oh. Well then, what did you do while you were out there? What kind of work did you do on the place?

A. Why, I worked around there trying to fix things up to make something out of it, and make a home there. While we were in there we was working there all the time on our land.

Q. How much did you clear of this 160 acres and

put in cultivation.

A. Why, I didn't—I had about two acres right there where my house was, and there was in the neighborhood of sixty acres of a burn on it.

Q. Did you sow that sixty acres to something?

A. No, sir, it was all—been wild grass grewed right there.

Q. Did you have some stock in there?

A. Yes, I had my horses in there was all.

Q. You didn't turn your horses loose in the country, did you, and let them go in there?

A. Yes.

Q. Let them range in there. Were you raising stock horses?

A. No.

Q. You just had a team, you mean?

A. Just had saddle horses in there.

Q. You just pastured your saddle horses? Did you stake them out?

A. No, sir.

Q. You just let them go out in the woods?

A. Yes, sir, turned them out there on that grass. They wasn't very apt to leave it.

Q. You didn't have any cattle, did you?

A. No, sir.

Q. Did you have any hogs?

A. No.

Q. Some chickens?

A. No, sir.

Q. Did you raise any potatoes?

A. Yes.

Q. How many bushels of potatoes did you raise?

A. Oh, I don't know. I raised five sacks in there one year on a little patch.

Q. And finally you gave up these extensive improvements and left that farm and went back to Glendale?

A. Why, when my filing was returned to me, there was no use for me to stay there when I had no chance to get it.

Q. Well, that is what you did—you went back to Glendale?

A. Yes.

Q. And your associates that went out there, they went back to Glendale, or went somewhere else?

A. Wherever they—I don't know just where they went to.

Q. Now, what in your judgment, Mr. Spiker, is this unsold land that you are acquainted with in Douglas County belonging to the railroad company, in these townships that you have been over—what in your judgment is it worth an acre today, or have you any judgment on that subject?

A. No, I haven't, because I never made any estimate of land. In fact, I know a very little bit about the value of land.

Q. You don't know much about land anyway, do you?

A. Well, as far as the prices are concerned, why, I don't. But I think that, to know a piece of land when I see it, I consider I know that much about it.

Q. But you wouldn't know what price to put on these unsold railroad lands from the knowledge that you have of it?

A. No, I wouldn't. I wouldn't know the real value of it.

Whereupon, upon redirect examination, witness testified, that he does not know how long this piece of land that his father had, these three homesteads, four hundred and eighty acres, had been settled. This homestead that he took or attempted to take, to file on, he went out there and settled on unsurveyed land and made a filing in the local United States land office at Roseburg, and when the land was surveyed it was discovered that instead of being government land it was part of this grant and his filing was, therefore refused, that is the way that he understands it. He was uncertain at all times as to whether he could maintain his title to the land. There was an uncertainty because it seemed at that time the majority of the people seemed to think, outside of the twenty mile railroad limit, if he understood it right, they didn't seem to know whether the

railroad company really had good title to the other extension of the limit or not, that is the indemnity limit. At that time, the majority of the people seemed to have their doubts but what maybe a person could file on that land and get it, and he was just outside of the railroad limit. He and his associates wanted that land, they considered that they were going to make a stock ranch out of it, and of course it had to be agricultural land. It has to be agricultural land before one can make a stock ranch out of it. He did not attempt to buy it merely to obtain the timber that was on it for speculation, that was not the idea at all.

Whereupon W. B. SHERMAN, called as a witness on behalf of complainant being duly sworn testified that he is forty-eight years old and resides in Josephine County, Oregon and has so resided about ten years. Prior to that time he lived in Michigan and was born in that State. He has engaged in the land business since he came to Oregon in Josephine and Jackson Counties, very little in Douglas County and he is familiar to quite an extent with the lands in Josephine County. He is acquainted quite extensively in that county, has bought and sold a good deal of land. With the exception of that part of the County which is included within the Forest Reserve, he is acquainted in a general way with the lands in Josephine County and has spent ten years nearly all the time on these lands, and that applies largely to the northwestern part of Jackson County. Speaking geographically he has been in all of the townships of Josephine County, with the

exception of the Forest Reserve and has made a study of the soil and climatic conditions in that county and that also applies with reference to this tract in the northwestern part of Jackson County. He is more familiar in five townships in the northwestern part of Jackson County, township 33, Ranges 2, 3 and 4 west and township 34, Ranges 3 and 4 west. He is well acquainted with all of these townships and in a general way with the townships adjoining them. His purpose in going out over these lands in Josephine County was because he was in the land business, inspecting lands and showing them to purchasers and buying and selling lands. He made his way through the county spending most of his time on lands with a compass, that is, a portion of it, and part of it on the wagon roads and trails using automobiles, horses and buggies in making his trips through the County, the different usual ways of traveling. About seventy-five percent of his time during these ten years has been occupied in that general way out in the field. He has interested himself in the development of that country, has promoted the fruit business, and the poultry business more especially, the grape business and orchard business and has been connected with commercial clubs. He organized first the Grants Pass Mining Association, second, the Grants Pass Athletic Club, third, the Grants Pass Commercial Club, fourth, the Grants Pass Poultry Association, the Josephine County Poultry Association, fifth, the Josephine County Good Roads Association and the Southern Oregon Development League, he was alone

in the Tokay Grape Association. These various bodies, with the exception of the Athletic Club have been engaged in demonstrating, developing and promoting the development of the resources of that country. He is familiar with the character of the soil, the lay of the land and the other climatic conditions belonging generally in this area that he has described and is familiar in a general way with the history of the development of the resources of that district since he took up his residence at Grants Pass and with the manner in which the Railroad Company has disposed of or held these railroad lands in that district. There are three different classes of soil, alluvial soil, red soil and brown soil, or commonly known as granite soil. The brown soil is commonly known as granite soil, sometimes called decomposed granite and porphyry. He thinks the proportion is about one-third of each. The alluvial soil is principally along the river bottoms, not always, but practically speaking. One finds the red soil on the first bench and part of the hill lands and the granite soil on the first bench and part of the hill lands. The red soil is intermingled with the granite or brown soil in places. In a general way, that district, speaking generally, is rolling although they have a great deal of level lands, he is speaking of lands outside of the Forest Reserve. By level lands are meant comparatively level lands, there is no real prairie in that country. He is speaking of Jackson and Josephine counties. He would consider that fifty percent of the land with which he is acquainted in these two counties is com-

paratively speaking, level, these lands that are rolling and which he does not include as comparatively level, can be subjected to cultivation. There are some lands there which are too rough to be cultivated. He would say that in that general district about thirty to thirty five percent are so rough that they cannot be cultivated, or there are other obstacles to the cultivation of the lands so that they cannot be cultivated either on account of their roughness or barrenness, or their general conditions which cannot be overcome. Speaking of that country from a matter of townships, the rolling land and the level land and rough land that cannot be cultivated, are intermingled. Most of these lands, other than the thirty or thirty five percent that he had described as being too rough or otherwise unsuited for cultivation, are in his judgment productive lands and can be subjected to profitable cultivation. The altitudes in that district vary from 1,000 feet above sea level to 2,500 feet above sea level and a few points run to 4,000 feet above sea level. These various types of land, taking up first the alluvial soil, can be used for all kinds of fruit, vegetables, hays and grasses and general farming purposes and they raise some grain, although these lands are more valuable for other purposes than they are for grain. The red soil on the benches and rolling lands are very valuable for fruit and vegetables. For some crops, that land is more valuable than the lands with the alluvial soil and some not so valuable, but speaking in a general way, they are about the same value and about the same can be

produced from them in the way of profit. The brown soil, or decomposed granite soil, can be used for fruit and vegetables, grasses, alfalfa and kale and that soil can be used successfully without irrigation, nearly all of those hill lands are sub-irrigated, by that he means, that the brown soil or decomposed granite and porphyry and nearly the entire district has water under it—from six to eighteen feet is as deep as one would have to go to get water. A man on a small tract, can dig wells and irrigate five or ten acres and make good money out of it without getting water from any other locality. Irrigation is not necessary or indispensable in order to make profitable use of that land for agricultural and horticultural purposes, they can raise one crop of garden stuff on any of that soil the same as they do in other localities, but to raise three or four crops on one piece of ground the same year, it is necessary to have water on some of it and he believes that is generally true all over the western country, as far as his knowledge and information extend, excepting that in other localities, a great many other localities, they cannot raise the second or third crop, as he understands it, even with water. In going over the district he found nine miles out of Grants Pass, a vineyard of about forty acres. After keeping track of that for a term of years he decided that the grape business was a very profitable one for the district and so he decided to form a grape industry. He started in by buying lands that were favorably situated and located for the purpose, cleared them, plowed them and planted them and induced other

people to do the same. He found that these grapes growing in the forty acre vineyard of which he speaks were on the south hill slope, red soil, and he bought and cleared and set out grapes on red soil, south hill slope largely, adjoining the city limits, that is, the tract adjoins the city limits of Grants Pass. He has a vineyard there of twelve acres, set out three years ago, it will be four years in the spring of 1913. These grapes are bearing, they commenced to bear some grapes the second year and got a commercial crop the third year and will increase after the third year until probably ten or fifteen years. Pruned in the proper way, it has never been demonstrated as to how long grape vines will live. The first grapes that were pruned to a stump, as they call it, grew up about twenty four inches and headed there. The first grapevines, as he understands, were pruned that way about three hundred years ago and they are still producing a good crop, but he does not mean that this occurred in Josephine County. He has demonstrated that tokays, and malagas will grow on these lands. The Concord does as well or better on the north hill slope. The product of the tokay grape compared with tokay grapes grown elsewhere is of a very much better quality in their district than in any other part of the United States. There are two districts in the United States where tokay grapes have been grown successfully, the Grants Pass District and portions of California. The tokay grapes grown in Josephine County are superior to the California tokay grapes in color and keeping and shipping qualities, they

are a very much firmer grape and will stand shipment better. In packing them, they put fifty to sixty pounds weight in pressing the tops of the crates down before they nail them. If the same thing were done with the California grape, it would ruin the entire package and it would have to be thrown away. The grapes produced in the Josephine County country have come in competition with California tokays in the Portland markets and they get a higher price for their grapes than is paid for the California grapes. He has seen places where they sell them retail, in Portland at five cents a pound more. They get from twenty five to fifty cents a crate more for them selling at wholesale. The 40 acre vineyard in Josephine County is thirty two years old but these other vineyards are three years old. About ten or fifteen people planted commercial vineyards in Josephine County three years ago. This was their first year's crop harvested this year and marketed locally and in Portland. The experiment of growing these grapes on the brown or granite soil, has been made in the district within his personal knowledge and he has observed that the result was good. It is just as good as the red soil, if any difference better. The brown soil produces fruit and vegetables of higher grade than the red soil or the river bottom soil. The flavor is better and the keeping quality is better and the color is better. Grapes, fruit and vegetables grown on the hillsides are better than similar products grown in lower altitudes. He does not know the scientific reason or explanation of that result, but does know

that that condition exists all over the country. As a rule the hill lands produce better fruit, better quality than the river bottom lands. He understands the same is true of oranges and lemons and nearly all classes of fruits. Nearly all districts have first developed the river bottom lands and then later on, the hill lands. Atmospheric conditions in the hill lands, in the higher altitudes, preclude certain blights that are found in the lower altitudes, in the bottom lands, including what they describe as sap souring. They also have more moisture higher up than they have on the lower lands, which has something to do with it, meaning moisture from sub-irrigation and rainfall both. The cultivation of the roots of the grape vines, brings the moisture up but artificial irrigation is not essential to the growing of grapes. Their grapes are better without artificial irrigaton, that is the trouble with California, that is the difference between the Oregon tokay and the California tokay. They irrigate the California tokay which makes them an inferior grape to the non-irrigated grape. The California tokay when cut with a sharp knife, the juice runs out, the Oregon tokay one can slice off into thin wafers and handle these wafers with a knife like a piece of beef, the tissue of the Oregon grape is much firmer than the tissue of the California grape, owing to that particular point, as he understands it. The flavor of the Oregon grape is good, it is as good as the California grape. The malaga grape has not been experimented with or grown as extensively as the tokay in that district, but wherever there is a malaga growing, it is

doing well and they get splendid fruit from it, splendid results and no other districts in the United States grow malagas, as he understands it. They are just starting in to grow malagas there, until this year there was but a small amount of malagas in that locality, and now they have several different men who have a few acres each. All of the three year old stuff is bearing and he has seen the fruit himself, they had them this year. He started in about four years ago exploiting the growing of tokay grapes in Josephine County, and spent most of his time and energy with the home people getting them into the industry. He took various ways of doing it. One thing he did, he gave the school children throughout the county a grape vine each, rooted vine, and a red stake to stick up by it, and then he gave prizes for the pupils who would raise the most vines the first year, the most length of vines. He gave out over 7,000 vines. They were not all given to school children, but after putting them in the schools, all over the county, he had two men on the streets giving them to everyone that came along that would take them and plant them, wrapping them up one or a dozen or two dozen, just as many as they would take. He gave away thousands of them. He had men for a week during planting season that did nothing but give away grape vines, and they are now being grown all over the county. He has personally seen the results from these vines he gave out, in this manner and has kept pretty good track of them. This was about four years ago. He does not know of any general failure on the part

of those grapes that he gave out in that way. Wherever he found a red stake sticking since, there has been a vine growing. Of course the object of the stakes was to mark the place and to continually advertise to the people passing by it, that where the red stake was, there was a grape vine, and everybody has taken pride in watching the development. They were so well pleased with the results when they came to pick this year's crop, they had their first annual Tokay Grape Festival last month at Grants Pass. There were over fifty automobiles in the parade decorated with grape vines and the fruit itself. Nearly all of the business places were decorated both with fruit and vines inside and outside. He could not say how many grapes were produced in Josephine County this year (1912). He could give an estimate in a general way of what will be the production next year on the lands that are set out to grape vines. They have somewhere, he thinks, between 200 to 300 acres there now. There are 535 vines planted per acre. They would get at least a crate per vine next year. He believes there are 1200 crates in a car. He thinks they would have 100 or 125 carloads shipped from there next year and the product would be worth \$1.25 to \$1.75 per crate and that would be something like \$1500.00 or \$1600.00 a car and he thinks there would be next year from 100 to 125 cars. They raised grapes from a commercial standpoint this year, sold them and shipped them. They were shipped all over the United States in single crates and in quantities to Portland. At their Tokay Grape Festival, there

were lots of grapes sold to people and shipped throughout the United States to friends and that is one of the reasons why it is hard for him to estimate the amount of this year's crop. Another reason is that he did not keep in close touch with that feature this year. If his estimate of next year's crop is borne out by the actual results there should be crops there yielding \$150,000, in grapes alone next year, and the cultivation of the grape, specially the tokay grape, has proceeded to a point in Josephine County where he is convinced as a practical man, that it can be successfully conducted in that county, beyond a shadow of doubt. He knows, in a general way, where these railroad lands are located in Josephine County and a great deal of them contain lands of this same general condition which would be suitable for the growing of grapes.

Their folks have just learned that the poultry business there in the hill lands is very valuable. They can grow kale on those lands, and if a family has five or ten acres of land, they can cultivate, they can raise 1000 or 1500 hens, and it has been thoroughly demonstrated that they can make a profit of at least one dollar per hen per year. The reason that this community or district is peculiarly adapted to the poultry business is on account of the fact that they have so little rain and so much sunshine during the year. They have about twenty five inches of rain compared with fifty or sixty in the Willamette valley. They do not have the excessive heat in the summer that they do in the Petaluma district, the best poultry district in the

United States. In Petaluma, near San Francisco, California, they make from \$1.00 to \$1.50 per hen annual profit, at the same time they have to pay from \$25. to \$35. a ton for green kale and green alfalfa, where they in Josephine County, can raise there on their hill lands without irrigation from twenty to forty ton of kale per acre annually. They can pick their kale 365 days in the year. He means that they can raise on their hill land there without irrigation from twenty to forty tons of kale per acre annually and they can pick their kale 365 days in the year. That is what makes poultry so profitable in that district. He organized this Josephine County Poultry Association referred to, to promote that business. That matter has actually been demonstrated there. There are a great many more days of fog on the lower lands than there are on the higher lands, the higher lands would be more valuable on that account. Referring to the poultry, they have no diseases down there, as they do in other localities. The roup and such diseases are nearly unknown in that district, which makes it a very valuable point in their favor. Such portions of quarter sections as could not be used for the purposes he has indicated, such as for growing grapes, fruit, vegetables, other agricultural and horticultural crops and the raising of poultry could be used for grazing purposes. The higher lands are better than the lower lands for grazing. A settler, if he had 160 acres of that land could handle cows and pigs and poultry and fruit and vegetables. Apples are very productive in that locality, they are high grade, good qual-

ity. The Rogue River Valley, he believes it is conceded, excels the world in the growth of pears and their hill land is very good pear land. The pears grown on their hill lands have better keeping qualities than the pears grown down in the Rogue River Valley proper and they are a better flavored pear and they have a higher color and are of a superior quality and fully as productive. The trees will come into bearing at about the same time as in the valley. The pears do not have the pear blight in that district as they do in other districts, very little pear blight in the district and when they do have a pear blight, if there are signs of it, it is easily disposed of.

Whereupon witness testified:

Q. Well now, reverting to the general question I asked you a few moments ago, Mr. Sherman, taking into consideration these various opportunities that a settler would have to use the land profitably which you have mentioned, are there very many quarter sections in Josephine county, and particularly in that part of the county where these railroad lands are situated, which would not support a settler and his family?

A. There are some.

Q. About what percentage of all of the quarter sections?

A. That would not support a family?

Q. Yes.

A. Possibly 25 per cent.

Q. In your judgment then would 75 per cent of all those quarter sections, if put into the hands of settlers—would they support a settler and his family?

A. 75 per cent, did you say?

Q. Yes.

A. Yes, sir, I believe they would.

Q. Now, do you mean that he could just make a bare livelihood, or do you mean that the settler could thrive under those conditions?

A. He should be prosperous; if he is industrious, he would be prosperous.

Q. Mr. Sherman, you say that you are familiar with the general policies that have been pursued by the railroad company with reference to the disposition of its railroad lands there, and the withholding of them from sale since early in 1903. I will ask you whether, in your judgment, that policy has retarded or promoted the settlement and development of that country.

A. It has retarded development to a great extent.

Q. Now, is that a theory of yours, or have you seen it demonstrated?

A. It has been to me a very expensive demonstration that I have made.

Q. Explain what you mean.

A. I mean that I have spent thousands of dollars to get people to come to our district to locate—tens of thousands of dollars; and I mean that the biggest draw-

back that I have had was the fact that nearly one-half of the district was not available for settlement, on account of the Southern Pacific owning it and would not sell it at any price.

Mr. Fenton: You mean the Oregon & California Railroad Company owning it.

A. Pardon me. I believe that is right—the Oregon & California.

Q. Well now, what experience did you have with these prospective settlers in that respect?

A. Well, when we would take them out to sell them lands, we would take them in our automobiles or in our vehicles, and start out to show them a piece of land, and possibly one to ten miles from the railroad, and there was so much brush land, they would ask: “Well, what is this piece of land? Why isn’t this cultivated?” “Well, that belongs to the railroad company.” “Well, aren’t they going to sell it?” “No, it is not in the market at any price.” And the prospective settler would say, “Well, if I buy this piece over here that you have showed me, will I have to pass through this brush country? Won’t I have any neighbors on this land on either side of me? Won’t there be anyone here to help build churches and schools and better roads and society, or am I to be here with brush on all sides of me?” And of course I had but one answer to tell them—that I didn’t know when the railroad company would put their lands on the market. And that one thing alone has made it very hard to settle people there.

Q. Then I will ask you whether, in your judgment, the effect of the policy pursued by the railroad company in retarding settlement and development there, has been limited to the odd numbered sections held by the railroad company, or has it also extended to the even numbered sections intervening the railroad lands?

A. As I explained, it has made it hard for us to get settlers on the even numbers, because the odd numbers would be uncultivated. It has made it very hard to settle even the even numbered sections.

Q. Well now, to what extent have prospective settlers come into that country during the time that you have been working upon this subject?

A. Well, we have had thousands of people visit our locality. There was for a year or two that our hotels were filled full and running over. They would have to take people out to private houses almost every night in the year for a couple of years there, while we were doing a good deal of advertising and exploiting getting them in there—of course, the little amount that I spent was only a drop in the bucket compared with that spent by commercial organizations and other men in the same line as myself—and the railroad company, the Southern Pacific, have been very good about working with us in regard to that point; they have, as a rule, been ready to do their part of advertising, etc.

Q. Now, I will ask you whether, in your judgment, if these railroad lands should be offered to settlers, that district there would be settled up and con-

verted into homes of settlers supporting and maintaining themselves by the cultivation of their homesteads?

A. If those railroad lands were put on the market, in my opinion, that is, put on the market at a reasonable figure, at a reasonable price, we would have hundreds of people come there and buy those lands, and the district would be developed, which would induce more railroads and the general development of the locality. It has been bad for us in so many different ways, not being able to develop; by holding back the agricultural and horticultural possibilities, it has held out so many other things which would have been for the best interests of the locality.

Q. Mr. Sherman, describe more in detail the extent to which the poultry business is being developed in this district, and what has been done with reference to the transferring of some of the poultry business from this district in California that you refer to to Josephine county?

A. We have had two or three poultrymen come in there in the last two years. One was a Dr. Wilcoxson from some place in the East, and there was a Mr. Steinbach from Alaska, and there was a Mr. Wise from St. Louis—Charles Wise. And they were all three men very well posted in the poultry business, and they found that the hens—

Mr. Fenton: I think I will have to object to this as hearsay if it came from these other gentlemen to the witness.

A. They found that the poultry in that district, that is, the poultry that was what we call the barn lot hens, their plumage and their condition was much better than in any other—than the same class, of course, in any other district. So they went into the poultry business there. We started about a year ago, a little over a year ago—my office started exploiting the proposition; and we had a poultry show on the first of the year, and we got a great many people to go into the business. And there could not be chickens hatched in the district fast enough to supply the demand, so our people sent down to Petaluma and bought the day old chicks by the thousands, and had them shipped up there, and we now have about twenty or thirty people in the poultry business in a commercial way.

Q. Explain what you mean by shipping day old chicks, and how it is done.

A. Well, the day old chicks, they are called day old; however, they are taken as soon as they are hatched, they are taken and put into crates, and shipped the same as eggs. The chick can be shipped—they can be in transit 24 hours. The yelk of the egg when the chicken is hatched is in its stomach, and it furnishes itself food for 48 hours. Their little bills are sealed, as I understand it, and cannot be opened until the expiration of the 48 hours, so that they will stand the transit. And in taking advantage of that, our people have, in order to get a start this spring, bought a great many thousand birds from Petaluma. There is one man got 6000 birds now. Others have from 100 to 1000.

Q. What if anything has been demonstrated there with reference to the production of loganberries and strawberries?

A. Well, strawberries, we can raise two crops a year on this granite soil. We grow the best berries on the granite soil of any soil that we have there. The loganberry, it has been thoroughly demonstrated that we can raise from \$300 to \$700 per acre worth of berries from the granite soil.

Q. Now, does this granite soil absorb the rainfall readily?

A. Yes, sir, it holds the moisture well. With dry farming process, the granite is the best soil we have in that district. It is better than in the river bottom. It holds moisture better with cultivation, with dry farming, than the river bottom or the red soil.

Q. At the same time, how is it with reference to being muddy, speaking now as to its usefulness in the poultry business? Does it get muddy?

A. No, it don't get muddy and sour like the heavier soil would, which makes it better for the poultry business. You take the birds in the Petaluma district, for several months in the year they have to wash all their eggs—they are dirty. The hens are dirty, all their lower feathers and their wings, and so on, is muddy all the time. They have not any fit place, any fit grounds to keep them on. And that is another point that the Petaluma people claim that we are far ahead of them on, that is, we don't have to wash the eggs;

the eggs are always clean. Another thing with the kale, in feeding them, our kale is always picked fresh, and theirs is shipped in.

Q. Have you had any individual interest yourself with reference to orchard lands there, and if so what?

A. Well, I am interested in one tract of 3040 acres.

Whereupon witness testified that this orchard land in which he is interested, to which he refers, is north of Grants Pass between Grants Pass and Merlin, adjoining the City limits of Merlin and reaching from there to within about a mile and three quarters from the City limits of Grants Pass and parallels the Southern Pacific, or the Southern Pacific runs through it about three miles. They have cleared, plowed and planted about 800 acres to orchard. They have had it two years and so far they have cleared and planted about 800 acres and are still clearing and planting. Railroad lands involved in this suit are all around them. They started in to get a 5,000 acre tract, but the railroad lands would be intermingled so that they could not handle it practically and they had to cut it down to 3,000 acres. These railroad lands which intervene their lands are not of a different type of soil but are the same thing. They are selling these lands for orchard purposes at from \$300. to \$500. an acre, land that is being planted and the \$550. and \$600. price is planted and cared for for five years. He believed he had better refresh his memory a little further here, for they have some land

that they have sold at \$200 per acre. They plant 530 vines of grapes per acre, that would be nine feet apart. They produce from one crate to five crates per vine and they figure at least a crate per vine, that is very conservative. They got this year on three year old vines, in a great many of them, wherever they had good care, a crate per vine on the three year old stuff this year and they figure \$1.00 profit per vine, practically speaking \$500.00 per acre. Any of those who are in the business who have harvested their crop this year from three year old stuff believe that is a very conservative figure. They have the United States for a market for those tokay grapes. They could ship them to the old countries, they will stand shipment to the old countries. If all of the lands in Josephine county of the type he has described should be used for the growing of these grapes, the market would get better than it is now. The trees grown on the granite soil, the fiber of the wood is very much stronger than the fiber of the wood grown on the river bottom soil. The tree will carry more fruit with less danger of breaking the limbs. They do not have to look after the propping of the limbs nearly as close or the pruning and the thinning on these granite and hill lands as one does on the river bottom lands. There seems to be as much difference between the fiber of the wood, the strength of the wood, of a tree grown on the hill lands comparing that with hickory, comparing the tree grown on the river bottom with maple.

There have been several efforts made by the local people to induce or interest capital to come there and

build railroads, but so far, it has failed in every case. One of the principal obstacles is the fact that only one, practically one-half of the district, is subject to entry or development, or he means to say, location or cultivation. He does not mean that half of it is subject to cultivation by reason of the character of the soil, but that people cannot buy it, it is not available, cannot be bought, it is not on the market, it belongs to the Oregon and California Railroad Company or the Southern Pacific Company, meaning the lands involved in this suit. He has worked with others, in several different cases, trying to interest capital in building a railroad out from Grants Pass, which occupies the natural strategic position there with reference to the country southwest of it. There is a natural opportunity for the construction of a railroad line southwesterly from Grants Pass through this district he has been describing and on to Eureka in California. There is a route now, he does not know as to Eureka, but to Crescent City, it is all the same, it is right on the Coast. He has not been over the route from Crescent City to Eureka, but across to Crescent City there is a route that engineers report on as being very feasible, and another one down the Rogue River across to Port Orford and Bandon. The route to Crescent City goes in a southerly direction through Josephine County from Grants Pass and goes through this district which he has been describing, including these railroad lands. The fact that virtually one half of the lands tributary to the proposed line of railroad is in the hands of a com-

peting line of railroad, the Southern Pacific Company, has proved an obstacle in his efforts to induce the investment of capital for the construction of a railroad extending from Grants Pass to Crescent City. They have not been assisted by the Southern Pacific in their efforts to secure the construction of this proposed railroad, but have been obstructed on account of the lands. A company coming in there with a view of building a road would investigate the resources of the country, and when it found the thousands of acres of land both timber, mining, agricultural and horticultural, that would not pay tribute at this time and would not know when these lands ever would pay tribute to the railroad, that point blocked it to a large extent. A railroad through that country is necessary for the final development of the real industrial resources of that country. They have mines and timber and fruit lands. There is a smelter sixty miles back from the railroad on the route from Grants Pass to Crescent City for which they have to haul the coke—that is either forty or sixty miles back from the railroad, forty miles he thinks instead of sixty miles—they have to haul the coke to the smelter and haul the matter out, besides all the freighting of all their supplies and things of that kind and it makes it prohibitive to the operation of large bodies of copper ore in that district. If they had transportation close to them, they would be developed and the mines would develop the other resources of the district. He is familiar with the timber resources of Josephine County, in a general way and there is much

saw timber there. It is pretty well scattered over the county however, some of the heaviest timber they have is in the northeast corner of the county. He is not familiar with that part in the Forest Reserve because his business never called him there, but excluding that, his answer is correct. He is well acquainted with Elmer Shank and Mr. W. R. Whipple and their testimony that eighty five per cent of these railroad lands situated in Josephine County involved in this suit are waste lands and unfit for any agricultural or horticultural use is not correct. He would judge that about sixty five percent of these lands could be reduced to cultivation for the different purposes he has mentioned, that is of the total acreage. It is not correct as testified to by Mr. Shank that none of that land could be used successfully for agricultural or horticultural purposes without irrigation. They have been raising fruits on all those kinds of lands and they have not had irrigation on any of them up to this time, excepting he guesses the last year or two there have been one or two tracts there, there has been a little water pumped on them from the river. These different commercial bodies he has mentioned have distributed literature containing the same general information as that contained in his testimony. This literature has been published and distributed by the Grants Pass Commercial Club in co-operation with the Southern Pacific advertising department. The Southern Pacific Company joined with the Grants Pass Commercial Club in the expense, each paying half of the expense of publishing this

pamphlet referred to by the witness. It was published by the Sunset Magazine and handed to the witness by counsel for complainant and referred to by him and hereinafter identified as "Government's Exhibit 125." He could not say if this pamphlet has been distributed extensively, they have been getting out these pamphlets right along every year and to the best of his knowledge it has been distributed extensively. The emblem on page 45 reading as follows: "This booklet issued under the co-operative community plan of the Southern Pacific lines in Oregon. Wm. McMurray, General Passenger Agent. Planned and executed by Sunset Magazine Homeseekers' Bureau, Portland, Oregon," is in all of these pamphlets of that kind that are published under this joint management referred to by him. He has not had any conference with any of the Southern Pacific people as to this, perhaps not as to this one particular pamphlet, but he has in regard to the general advertising campaign that he and his associates carried on for several years. He conferred with Wm. McMurray, the General Passenger Agent for the Southern Pacific Company, lines in Oregon. At that time the Southern Pacific Company usually sent a man down in that district and he, together with their Commercial Clubs, and other men who were interested, shaped up the literature, and he always participated in that work. The lands referred to in that pamphlet as being of "most excellent quality for the growing of fruit, grapes, poultry, vegetables and other agricultural and horticultural use," are of the same character as the rail-

road lands involved in this suit.

Whereupon complainant offered in evidence as "Government's Exhibit 125" this pamphlet, which was received subject to the objection that this pamphlet consisted of unsworn hearsay declarations, of the nature of such literature generally put out by promotion companies, societies, commercial organizations and immigration bodies, in any country at any time, and everywhere, and is therefore incompetent. Which exhibit was received in evidence and is hereinafter set out and described and made a part of this Statment of Evidence and identified as "Government's Exhibit 125."

Whereupon witness testified that during his operations down in that country, he had found so many places that the railroad lands were in the way and blocked development and promotion in so many different directions and entirely different ways that he went to investigating the matter to see if there was not some way whereby they could get the lands put on the market so they could go ahead and develop the district and he had the Congressional reports looked up by his friends and got the language of the grant of these lands to the Railroad Company and counseled with some attorneys about it and they told him that they believed that the lands were being withheld contrary to the language of the grant. The Secretary of the Commercial Club of Portland put him on a program at the State Fair where the Oregon Development League was having a three days session and gave him the subject "Mining in Southern Oregon" and he thought that would be a good

chance to bring up the point of the railroad's ownership of the land and their withholding it from the market and he did so in a speech there. He thinks that was at the State Fair six years ago, either five or six years ago, either in 1906 or 1907, it was in the fall at the State Fair in September. He never had seen, never had heard, of any public agitation upon the subject, and never had seen a word in print in regard to it prior to that time. He gave the language at that time in his speech, he gave the language of the grant, as near as he could get it, and he showed the condition that it was putting the country in, and what the outcome would be if they continued for a term of years and they would be held back and so on. The State papers took it up, the Portland papers took it up and published his speech in full. He believes the Oregonian had it in full on the front page and the other papers had it and since that, right after that, it went to the State papers through other states, and he got copies of his speech sent to him from almost every state in the Union, he guesses, in the next few months. In that speech he took up all branches, how it affected all branches.

Whereupon witness testified:

Q. There has been some testimony here by Mr. Eberlein, who was formerly land agent or acting land agent of the railroad company, to the effect that the agitation with reference to this provision of the grant relating to the manner in which the granted lands should be sold originated at the instigation of timber men for the purpose of forcing the railroad company to dispose of

more timber lands to timber companies. Now, had you heard of any such agitation at the time that you made your speech at Salem?

A. No, sir, there never had—not to my knowledge had there been any agitation of any kind prior to that time.

Q. And was the import of your speech, or its purpose, to force the railroad company to dispose of timber lands in large blocks to timber companies and speculators?

A. No, sir.

Whereupon, on cross-examination, witness testified:

Q. Mr. Sherman, prior to the time of this alleged withdrawal of these lands from the market by the railroad company in 1903, as assumed by counsel for the government, was there any objection, to your knowledge, to the manner in which the lands of the company were being offered for sale in Southern Oregon, and particularly in Josephine county, and as to the liberal terms upon which these lands could be purchased for at least twenty years before that period?

A. I was not familiar with conditions before that.

Q. Well, you know, do you not, that there was general satisfaction with the way and manner in which those lands were sold for a period of twenty years prior to 1903?

A. You see, I came here at that time.

Q. I know, but you knew from investigation, did

you not, that if the company would recur or go back to the methods of handling the land as they did prior to 1903, the people would generally be satisfied?

A. I don't remember of any discussion on the point.

Q. Well, you know, do you not, historically, that prior to 1903 the company offered these lands for a period of more than twenty years to anyone who would care to buy, in tracts of 160 acres or less, on liberal terms, at low prices and on long installments, and that the lands remained unsold practically up to the time you came to Grants Pass? Do you not know that to be a fact historically?

A. Yes, sir.

Q. Do you not also know, Mr. Sherman, that for a number of years preceding 1903 any land that was claimed to be mineral in character that had been patented to the company, and had nothing in it or on it other than a mineral possibility, and was not valuable for timber or for agricultural purposes—that such lands were sold to the first applicant or occupant at a flat rate of \$2.50 an acre under quitclaim deeds uniformly by the company?

A. Why, of course, I was not here in those days, but I learned you are speaking of history?

Q. Yes.

A. I learned through the people there that if the railroad company found there was any mineral or anything of that kind, they withdrew them and did not sell

them to the applicant. That is the general impression that I have got.

Q. From the people who wanted to get them?

A. Yes, handed down.

Q. Well, haven't you got that impression since this alleged withdrawal of 1903?

A. Well, of course, I learned but very little of the details of the proposition until I came to the coast.

Q. When was that?

A. That was about that time, sir.

Q. About 1903?

A. Yes, a little before that. But I started to look around and getting ready to buy something. I came here to buy railroad lands, and about the time that I came here they were withdrawn from the market.

Q. Well now then, suppose that the railroad company would now place these unsold lands upon the market, to be sold at private sale, upon reasonable and easy installments for deferred payments, at a reasonably low rate of interest, to whomsoever would buy, and particularly to people who might desire to buy tracts of 160 acres or less, and the price should be placed at what the lands are today actually worth in the market, do you think those lands would be sold under those circumstances and generally purchased?

A. I do.

Q. If that were done, do you not think also that it

would meet with the approval of your people, and the people of your county and Jackson county?

A. I believe the people of our county would be very glad to have those lands put on the market at a reasonable price, because it would not only mean immediate settlement of the lands, but it would mean the settlement of the other lands and the raising of the valuation of the other lands adjoining it.

Q. You mean that it would mean the immediate settlement of such lands as were suitable for that purpose?

A. Yes, sir.

Q. It would not mean the immediate settlement of that 35 per cent of these lands that you thought were of no particular value?

A. No; but the larger portion of the lands would be settled in a very short term of years.

Q. That is to say, they would either be settled or purchased?

A. Yes. Well, settled and purchased.

Q. You would say purchased rather than settled, wouldn't you?

A. Purchased and settled too.

Q. I know, there would be some people that would settle.

A. Yes.

Q. But a great many people would buy and would not settle, but would improve in one way or another?

A. Yes, sir.

Q. Now, isn't it true, Mr. Sherman, that one of the sources of irritation in 1906 was the inability of mining prospectors to secure title to these railroad lands where it was believed there were good mineral prospects, and didn't that interfere with the business of locating mining men on these lands, and was not that a source of public irritation in Grants Pass and Medford and other sections of southern Oregon?

A. The only agitation there was on account of its holding the country back in its entirety, not in mining particularly, or timber particularly, nor horticulture nor agriculture, but the whole country was being held back.

Q. I know, but don't you know as a fact that there were quite a number of people who desired forties and twenties where they thought there was a mineral prospect, but had located it on what they found to be railroad land, and they could not make any purchase of that land, and they were compelled either to contest the company's title, it being patented and, as they claimed, not belonging to the grant, as the mineral lands were excepted from the grant, and that that was the source of a good deal of irritation and public discussion in 1906, and particularly in the election in 1906?

A. I never knew of any discussion in regard to the matter.

Q. Don't you know that that was the discussion in the canvass in Jackson county at the election in June in

1906, when Evan Reames was running for representative?

A. Well, I didn't know very much about Jackson county at that time. I had not got into Jackson county so much, and it was about that time that I commenced mixing up with the commercial organizations.

Q. You didn't figure yourself in politics at all?

A. No.

Q. You were a promoter rather than a politician?

A. I was not a politician.

Q. You were engaged in the promotion of your enterprises?

A. Yes, sir.

Q. And have been ever since you have been in Josephine county?

A. Yes, sir.

Q. Now, I call your attention to the first page of Government's Exhibit 125, which shows two large trees which I take to be sugar pine, and will ask you if that is the first industry or the first asset in a state of nature in Josephine county—timber of that character?

A. Well, the first that was made any use of was not timber.

Q. What is that?

A. The first that was made any use of was not timber. Agriculture and horticulture was the first.

Q. I am not asking you that, because Josephine

county was settled more than fifty years ago.

A. Yes, sir.

Q. And the Rogue River valley through Josephine county has been taken largely under the donation act?

A. Yes.

Q. And orchards and grain and stock were produced there in the fifties. I am not referring to that.

A. Oh yes.

Q. But I am referring now to the chief asset of Josephine county in a state of nature as being timber. Now, isn't that true?

A. Not in my opinion. I think, Judge, I could convince you that a man could make more money in ten years off ten acres of grapes on a south hillslope than he could out of a thousand acres of timber. I think I could convince you of that.

Q. Do you know that Mr. James J. Hill, said to be the greatest living actual railroad builder in the world today, states that an acre of timber is the best basis of tonnage of a railroad that there is today in western Oregon?

A. Well, an acre of timber in western Oregon would mean at the minimum 25,000 feet of lumber—twenty to 25,000, or a carload. Now, we can produce a carload of grapes every year off two and a quarter acres of grapes. Now, the timber is one crop for all of our lifetime, just as for generations it takes to grow that carload, that one crop of timber; but on two and a half

acres of grapes in one year we can produce a carload of freight, and do it every year right along.

Q. I call your attention to the fact that your literature, put out by your commercial club at Grants Pass, advertises Josephine county as containing nine billion feet of standing unsawed commercial timber. Is that true?

A. Well, I think that is a little low.

Q. A little low?

A. Yes. I went over it here in the last two months, and I think there is more timber than that.

Q. More commercial timber?

A. Yes.

Q. I refer, not to the timber which the government has reserved in its reserve in Josephine county, but I refer to commercial timber that is owned by private parties.

A. Well, my answer was to all the timber in the county in regard to the nine billions,—a little over nine billions of feet.

Q. You know there is such an advertisement, or was last year, sent out by your commercial club to that effect, was there not?

A. Yes, it has been put out. It has been handled for two or three years.

Q. I would like to ask you where this mature orchard near Grants Pass showing careful culture, on page

seven of Government's Exhibit 125, is located, and whose orchard that is, and on what land is it, what donation land claim, if you know?

A. Why, this is five acres of Spitzenberg orchard—I cannot read it there; but that looks to me—I took the picture—

Q. You were the photographer that took it, or you supervised it?

A. I supervised it. I made the pose for the picture. This is one Spitzenberg orchard belonging to Mr. Hull, then belonging to Mr. Anderson.

Q. Where is it? On what land?

A. Well, now, by referring to my map I could tell the section.

Q. Yes, just refer to your map and give us the section, township and range that that orchard is on.

A. Yes, that is the orchard. I sold that property a couple of times now. I ought to know the description of it, but I don't. (Witness refers to map.) I believe that is in section 15, township 36 south, range 6 west.

Whereupon witness testified that the property last referred to is about three miles from Grants Pass, but he could not say upon whose donation land claim it is. It is a half mile from Rogue River in the valley and he would suppose that it has been settled for forty or fifty years, the orchard is twelve or fifteen years old, he does not know as to how long it has been settled, but it is one of the early places. Referring to page 12 of "Govern-

ment's Exhibit 125," which purports to show "Well drained hillsides of Rogue River valley," and which shows a vineyard, that is Carson's vineyard. It is hard to tell what section, township and range that is in. Tokay Heights is the property of witness. The tract referred to at page 12 of "Government's Exhibit 125" is Carson's vineyard, which is twelve miles from Grants Pass on the Applegate, it was a forty-acre vineyard, it is now sixty acres. That is the old vineyard that is over on the Applegate about twelve miles south of Grants Pass. The Applegate is one of the oldest settled portions of Jackson County. This land was not taken up under the donation land law, most of the valley land was taken under the donation land law. This land is on the foothills just up above the bottom. Thirty-two years ago Carson planted the upper part up here of this vineyard. Carson has grubbed a large portion of this vineyard lately because it was not of a commercial variety. Carson has never shipped a carload lot because he has never had a car of tokays. Mr. Carson's half acre was all they had to start with four years ago, now they have large tracts of it, he would say something between two and three hundred acres now scattered around over the different sections in favorable places. Referring to these "Mammoth pumpkins bearing witness to the fertility of the soil near Grants Pass," on page 13 of this pamphlet, this is on the Rogue River at the mouth of the Applegate, the junction, twelve miles below Grants Pass, in the old settled part of that country, settled probably forty or fifty years

ago. Referring to the words "Second growth of alfalfa. Yield averages seven tons a year," page 14 of "Government's Exhibit 125" this is about twelve miles from Grants Pass in the Rogue River valley on the low lands or the level lands and is on an old settled donation land claim, he could not tell the man's name, he could pick out the section of land it is on, but could not tell the name of the owner, he knows him well by reputation and sight. Looking at page 15 of "Government's Exhibit 125" which gives a photograph of a "Herd of Jersey cows which returned an income of \$110 each for 1910," this is the Williams Creek bunch. Williams Creek is a tributary of the Applegate, he believes, but is not sure, not positive, that would be a part of the Applegate country and is an old settled part of Jackson County, probably a donation land claim in the valley, but he does not know as to that. Referring to page 16 of "Government's Exhibit 125" "Orchard of mature Spitzenbergs, near Grants Pass," this is the same orchard identified by him before, but is a different view. The orchard shown on page 17 of "Government's Exhibit 125" is not another view of this same orchard. He is trying to see who the man in the photograph is, he had most of these pictures taken, he can tell by the man as to whose orchard it is, it is in the Rogue River valley, he would suppose on the bottom there because of the size of the trees, not exactly that, in one sense that would answer that because their people did not know until just lately that the hill lands were as valuable as they are.

"Q. As a promoter you have been trying to teach

them that fact, haven't you?

A. I have done it, judge."

He cannot identify the orchard shown on page 18 of "Government's Exhibit 125" but it is in Grants Pass, but he cannot identify it. Grants Pass is situated on the level land there on the Rogue River and has been settled a great many years. The orchard on page 19 of "Government's Exhibit 125" entitled "Eight year old pear trees in a highly profitable orchard" is Scoville's orchard up on the hill about three and a half miles north of Grants Pass and between 1600 or 1700 feet contour and is one of those orchards up in the cove, up on the hill and has been an orchard about eight or nine years he thinks. It is on the right between Merlin and Grants Pass, is not in one of those little coves between Merlin and Grants Pass, it is not on that road, it is to the right of that road, it is on what they know as the Granite Hill road. This is red land, that is the red soil. This land was timbered, there was oak and laurel, cedar, fir and pine on it and some saw timber he thinks but that was before his time, but the other land adjoining it, he knows the conditions there all around it and there is scattered saw timber. This is about three and a half miles north of Grants Pass. He has different kinds of pears, principally Bartlett's. The vineyard described as "Vineyard of Tokay and Malaga grapes containing 65 acres," shown on page 20 of "Government's Exhibit 125" is another view of Carson's vineyard over on the Applegate, that is the Carson vineyard referred to by him awhile ago as having been there a great many years. They started to plant it thirty-two

years ago. They put in a half acre of tokays and now they are grubbing up everything else and putting in tokays on the entire place. The "Young orchard containing an inter-tree crop of corn" shown on page 21 of "Government's Exhibit 125" he cannot recognize any of the mountains shown on that photograph or that orchard, all small orchards look alike and he would have to pick out something in the background or so on, so he could tell one from the other, and he cannot tell whether that is in the place that is indicated or not. He sees these large mountains there in the distance but cannot recognize them. He sees some telegraph poles, there is one close to the tree, but does not see any more, and the distance between the trees, there should be if it was a post, he cannot locate that. "Panoramic view of the Rogue River valley, showing especially Josephine County and the location of Grants Pass relative to the tributary country," shown on pages 24 and 25 of "Government's Exhibit 125" is not a photograph, that is made, evidently from a cast of some kind by the artist, it is not a photograph, it does not do justice to the locality and he thinks the maker was a mighty poor artist. It does not show much of anything except the line of the railroad and the stations and it shows Ashland, Medford, Central Point, Wilderville, and so on, and it shows Grants Pass as the center of the picture. The Oregon Caves are about forty miles from Grants Pass. The picture does not purport to be a birds eye view of that country. The picture of the forest "In the depths of the Forest in Josephine Coun-

ty," on page 27 of "Government's Exhibit 125" is a very ordinary picture of a very ordinary piece of timber land. If the trees stood as thick as that, from the size they appear to be that would be pretty heavy timber, and would be good. There are so many conditions in determining what a timber quarter like that would be worth. They are paying from \$1.00 to \$1.50 and \$2.00 a thousand stumpage for timber with reasonable convenience for transportation where it could be logged in the present or immediate future. He does not recognize the tree or the location of a "Three year old peach tree filler in apple orchard, Grants Pass" shown on page 34 of "Government's Exhibit 125," he does not recognize the location, the tree takes the whole picture and he cannot see anything of the location, one tree looks like another. The picture "Winesap apple tree on orchard producing \$1000 per acre," shown at page 35 of "Government's Exhibit 125" is on the Eischman orchard on the Rogue River, south of town. He cannot agree with counsel for defendant that that is an exaggerated statement of some famous tree in the old alluvial portion of the Rogue River valley used as a sample of exploitation, as he has kept track of the orchard. This does not state that these trees are eight years old and he knows the ranch to be eighteen years old from hearsay. He believes that orchard did produce a thousand dollars an acre two years in succession and land that would produce \$1,000 an acre ought to be worth \$4,000 an acre, but he does not know of any selling for that sum and never heard of any selling at that price. He was speaking of what it ought

to be worth, what it would pay twenty-five per cent interest on, it ought to be worth that much money. Referring to "Flame Tokays—Mediterranean grapes returning \$350 per acre," shown at page 43 of "Government's Exhibit 125" he could not answer whether these are grapes shown in the ground or are fixed, to put in the picture to be taken after they have been gathered, he could only answer from the appearance. He had nothing to do with the taking of the picture and he does not know where this picture was taken. He would not say that the grapes were fixed to put in the picture to be taken after they had been gathered. He had seen tokays that were just as heavily loaded as that and he does not think that that has been arranged and thinks that that might be taken showing an actual vineyard in a state of nature. He has seen grape vines just as heavily loaded as that. There is a box at the foot of the picture there that has been picked, but the others have all the appearance of being on the vines and it looks very natural. He could not tell whether these are from Mr. Carson's orchard or not. There is only the vine of grapes and the man to recognize, so he could not tell. He does not recognize the man and he had nothing to do with taking the picture. Tokay grapes were not shipped this year by the carload. They shipped them by freight and express, none by carloads this year. He does not know how many pounds of grapes have been shipped or how many crates have been shipped this year. There were a great many shipped by friends to friends elsewhere in single crates, a great many used in the district and a great

many shipped. This year being the first year that all those bunch of fellows raised any grapes, they did not understand the proposition and they did not put dry sulphur in the bloom of the vines when it was in bloom, and if they don't—that is the only thing they have to do to grapes, the only doctoring they have to do, they mildew as a result of not putting the sulphur in the bloom, the grapes mildew, the only thing that has to be done to grapes. The grape is the most simple fruit to raise of any, but it has a mildew. A tokay grape has its pest and sulphur must be put in any time within a week or two or three, or else it will mildew.

Whereupon witness testified:

Q. That is what I mean. Now, you spoke about the development of copper mines being retarded. Do you not know that for forty miles almost in length in Siskiyou County, and certainly within a radius of forty miles, the great copper plants at Kennett, along the line of railroad between Sisson and Redding have desolated the country so that there is hardly a living tree or a living thing growing; and that it has been enjoined as destructive of all other industries?

A. I understand that the Kennett people—that is one thing that our people have been working on; that is why we are so anxious to have a railroad run through to the coast, and run out on one of these points, and put their smelters on the point, so the ocean breeze will carry those fumes of the smelter to the ocean, and we can get a market for the copper.

Q. If you do that, the prevailing winds are from the ocean, are they not—not from the land?

A. That depends on the locality. Now, there are two localities that the prevailing winds are all off shore.

Q. You would have to get it right over on the coast, then, wouldn't you, your smelter?

A. Yes, sir, it would be over on the coast.

Whereupon witness testified that they would have to have another railroad, they could not handle this ore without other railroads. They would have to transport the ore from the mines to the smelter as it is always done. There is no complaint of the smelter at Waldo. There is quite a settlement there, a small settlement, it has been a mining country for fifty years at Waldo. W. J. Wimer operated a store there for twenty years. They still extract a good deal of gold there in pockets and quartz around Waldo. He does not remember what the 3040 acres of orchard lands cost them now, they bought of a great many different parties and one 200-acre tract at \$12,000, paid \$4,000 for 80 acres, \$5,000 for 160 acres and \$40 an acre for 80 acres. He remembers the high priced ones and some of the low priced ones. He has put out 800 acres of that into orchard and the trees are one and two years old, and they are proposing to sell these now on a five year contract, care for them in parcels of five and ten acres or whatever anybody desires. Some of the people are moving on to the grounds and they attend to them just the same. It was their idea when they started in, to sell mainly to non-residents, but there are a good

many people moving onto the tracts. There was one set of buildings built there by one party costing \$10,000, close to the railroad, as one goes down from Merlin, right on the edge of Merlin. Part of that is bench land, part of it is hill land. The pictures in their pamphlet (witness produces a pamphlet) are rather general of the district, their pamphlet is descriptive of the district. Their orchards were young when this pamphlet was gotten out, referring to this pamphlet which was gotten out before they planted any orchards, or about the time they had started to plant but they did have one or two little orchards. He does not know but what their pictures might be in there. \$200 and \$300 an acre was land that they were selling just as the land stood and when they put the trees in and gave a five years' contract, they asked \$550 and \$600 an acre, with interest on deferred payments at six per cent per annum. This pamphlet was published when they first started in. He did not know but what there might be one or two little orchards there on the tracts there in this pamphlet, but he does not find any. The railroad of the Oregon and California Railroad runs right through, it is twelve miles from Merlin to Grants Pass. Their tract is five miles long, he believes. The Southern Pacific Company has land between them and Merlin. The Country Club Orchard tracts is the same as Laurelhurst, and it belongs to the Rogue River Orchard Company, a corporation, of which he is one of the owners. W. T. Reed and F. E. Reed of Kansas City and F. F. Williams of Portland and S. D. Williams originally of Portland but now superinten-

dent of the works and living at their Club House, are interested with him in this property, the five own the property. They have built a \$10,000 club house on these lands and he supposes they have put into this proposition from \$150,000 to \$175,000. They have spent very little advertising, comparatively speaking. They have done most of their work on the grounds. This is one pamphlet they put out and they put out a poultry pamphlet.

Q. Well, it is pretty well advertised because of this fine country club as the railroad goes by, isn't it?

A. Yes, sir.

Q. With its green roof and beautiful pergola porch, and everything of that kind?

A. Yes, sir. We feature the fact that the Shasta Limited passes through our holdings.

Q. Don't you feature the fact that the other trains also pass through there in daylight, some of them?

A. Well, we speak of the Shasta Limited.

Q. I understand; but the other trains do pass through there in daylight?

A. Oh yes, sir, they do pass through, but we don't advertise it as a special feature.

Q. We common people have to travel on the other trains—we can't travel on the Shasta.

A. Yes, sir.

Whereupon defendants offered in evidence the reduced map of this Country Club district and environ-

ments as a part of the testimony of witness, marked "Defendants' Exhibit 372," which was received in evidence and is hereinafter set out and described and made a part of this Statement of the Evidence and marked "Defendants' Exhibit 372."

Whereupon witness testified that these "day old chicks" do not start before they have broken the egg shell but when they are hatched, when they are out of the shell, that is he means to say as soon as they come out of the shell in incubators, the chicken comes out of the shell in the incubator and they take the youngster as soon as he comes out of the shell and put him in crates and ship him, that is, if he was born this evening and he kicks the shell off, the next morning he starts on his journey and is shipped in a crate from Petaluma, California, near San Francisco, to Grants Pass, over the Southern Pacific, which is a pretty careful road. They appreciate what the road has done for them, the company sent special wires and kept track of these shipments and posted them and the Company was very nice about it and they appreciate it too. One has to raise the feed for these chickens, their green feed and have to have good soil for them on account of raising their feed, otherwise it is very expensive.

"Q. If you had a little bottom land, you could raise the feed and haul it to them, couldn't you, just as they do at Petaluma?

A. They do that in Petaluma.

Q. They could do that here?

A. Yes, not and make as much money as we do, but it could be done."

The number of acres necessary in the way of feed, to successfully operate a chicken ranch on one of these foothill tracts, would depend largely on the number of chickens that one handled in the year, and also would depend upon whether one produces his own young chickens, whether he has kept his chickens over. For the general utility bird, utility ranch, where one buys his chickens and does not keep a hen until she is past two years old, it is very much less than it would be if one did all the work, if one specialized on it. Vetch is not particularly good for chickens, but two or three acres of country kale, this thousand headed kale that they can grow twenty or thirty or forty tons per acre, that will keep a lot of hens. Two acres of kale is a nice little patch. They are just starting into the chicken business in Josephine County in the last year or two.

Q. Now, this granite soil has degrees—some of it is so nearly complete granite and porphyry that it would not sprout a white bean? Isn't that true?

A. No, that is not true.

Q. Well, there is always some soil, some earth, besides the granite in this granite soil, isn't there?

A. I understand, and I see from observation by being along the Southern Pacific Railroad that the granite that they blast out of the granite pit up a mile and a half or two miles above Grants Pass, and ship it all along for ballast—I learn from observation that stuff grows in

that, and they have to keep weeding it out?

Q. That is to say these station yards, where we use this granite for walks, would be good to raise fruit and crops, do you think?

A. That soil would raise stuff of that kind.

Q. When you get water on it, why, it will grow anyway?

A. Yes, sir. That stuff is not in place. But you take our granite, which is in place, and by dry farming you can produce almost anything on it. But that stuff of course is not in place, and if it is not too thick, too deep so but what this moisture can work up through it.

Q. Don't you know, Mr. Sherman, that a good deal of this hill land around Grants Pass there has scrubby pine on it, and chaparral and stuff of that kind, where this granite land is, and that it would hardly support a goat in a state of nature.

A. Judge, that has been the opinion of a great many people, but they are learning that that is not true. They find that that soil is getting to be the best known, the best soil that we have. People are getting so they would rather have that than the river bottom soil. For me, I would rather have it—much rather.

Q. And your opinion of the value of these lands and of their utilization is based upon that impression which you have of this granite soil and other soil?

A. From observation and from experiment—experimenting with it.

Q. Now, what in your judgment is the value on an average of all of these unsold lands in Josephine County, and those in Jackson County about which you have testified? What would you say was a fair average price, if the railroad company was called upon as an owner, now, in good faith to put a price on these lands in 160-acre parcels; averaging it all over the unsold lands that you have testified about, particularly in Josephine County, what, in your judgment, would be that fair average price or market value?

A. Why, Judge, I couldn't answer that question right off, but I can point you to a great many different sections and quarter sections and forty acres that I know the values of them, that is, comparing with other lands adjoining.

Q. What would they be worth, the best price now? Take some of the best, what would it be worth an acre in quarter sections?

A. Well, your company have lands there that are worth from \$100 to \$200 and \$300 per acre.

Whereupon witness testified that he would not put any value on this thirty-five per cent of the lands which he says would be of no value for any particular purpose, except for grazing, it is good for grazing, it would have some value for grazing, although it is rocky, steep and precipitous and too rough for tillage. That land for grazing purposes now, there would be other features to come in there, in fixing the price, in his judgment. If a man owned other land near it so he could use that for

grass, and then have another piece to raise stuff for his stock and so on, it would be more valuable than it would be otherwise but if he went to pick it out he would have to take the good with the bad, and if one had 160 acres of that land and could not pasture his stock outside, and let it roam up into the mountains, he would have to consider that when he came to pasture them. A good deal of the land up there is pastured now by ranchers and farmers outside, but this is not one of the chief elements or sources of their living, that is stock raising, it should be, but it is not. Some of these people who are up in the foothills and mountains away from the railroad, away from transportation, away from Grants Pass, are stock men back in there.

Whereupon witness testified:

Q. There are not many of those fellows up there raising Tokay grapes, and getting \$500 an acre, are there?

A. No, sir, those fellows up there are not. Those fellows up there are mainly stock men.

Q. People experimenting in grapes and intending to go into the business are down next to the railroad, near the towns where they can get market?

A. The grape don't make so much difference about shipping as an apple or some of the other fruits.

Q. I understand, but as far as your knowledge goes, the experiments are being conducted along close to the line of railroad?

A. Yes, all the way from one to twelve miles from the railroad.

Q. The twelve miles is over as far as this old orchard of Mr. Carson's?

A. Yes, Mr. Carson's orchard is twelve miles.

Q. You refer to the twelve mile orchard as that one?

A. Yes, sir.

Whereupon, on re-direct examination, witness testified that these railroad lands in there were patented at different times. There were a great many of them contested for mineral and those patents were held for a considerable time and there was some of that land which was not surveyed and it was not patented until after being surveyed, and all that kind of thing. It was patented at different times as he understands it. He thinks that most of the patents have issued just of late, in the last few years. He believes that the Company has sold on contract, that is his understanding.

Whereupon, on re-cross examination, witness testified that he has a copy of his address made in September, 1906 or 1907, at the State Fair pasted in his scrap book and he thinks it was printed in the Oregonian. He knows there was one or two of the Portland papers which printed it in full. They asked for his likeness and he gave it to one or two of them and one of them he did not give it to. He did not have his address printed in pamphlet form, he had nothing to do with it whatever

and was very much surprised when he found that it got the attention that it did. It was printed in the Oregonian or Telegram, in two of the daily papers in Portland. He thinks the Oregonian was one and he thinks it was printed as his speech all the way through.

Whereupon, on re-direct examination, witness testified:

Q. Now, Mr. Sherman, your attention was called to the Hull orchard in this picture. That is, a photograph of which is in this pamphlet, which is located on section 15, township 36 south, range 6 west. Now, the bill of complaint in this case shows that in that same township there are railroad lands in section 9, which corners on 15, 480 acres; section 11, which also corners on 15, 200 acres; section 23, which also corners on section 15, 400 acres; section 21, which also corners on 15, 277 acres; and a large amount of land in the other odd numbered sections in that township. Do you know whether these railroad lands that I have referred to, and particularly in sections 9, 11, 21 and 23, which corner on 15, are of a different character from the lands which are included in the so-called Hull orchard?

A. Yes, they are, part of them—pardon me for looking at my map.

Q. I direct your attention to the other odd numbered sections in that township, and particularly sections 9, 11, 21 and 23.

A. Yes, sir, they are all of a different nature than the soil in section 15.

Q. What is the character of the soil in these other lands?

A. Well, there is some of two of those sections about the same soil, but as a whole, they are part of them red soil, and part of them is the brown soil; a small portion of them is river bottom soil, the same as the other.

Q. This in 15, is it all river bottom soil?

A. Nearly all. Well, there is a portion of that runs up.

Q. Well, where the orchard is, is that all alluvial soil?

A. Yes, sir. That is where he had 38 boxes of Spitzenbergs from one tree.

Q. Now, counsel for defendants has asked you with reference to the various orchards illustrated in this pamphlet, Government's Exhibit 125, if they are not all on the alluvial bottom lands and on old donation claims and old settled parts of the county. I will ask you whether it is a fact that all of the orchards and vineyards there are on lands of that character?

A. No, sir.

Q. About what proportion of them are on different kinds of soil, and what is the general history of the development of the fruit and grape culture there in that general district concerning which you have testified?

A. Why, that district, like all other districts, the first planting they did was on the river bottom lands.

That is characteristic, as I understand by studying the history of all districts that I have looked up. They first go on to the river bottom lands and plant their orchards and vineyards and so on, and then they go on the hill lands. Now, we have gone to our river bottom, and we are going to the hill lands. We commenced several years ago.

Whereupon witness testified that there are producing orchards on the hill lands. The river bottom lands have frost down there in that country and they have to smudge. The hill lands do not have the trouble with the frost, they have to smudge, in any apple growing district, good apple growing districts they have frosts. It takes a frosty district to produce a good apple, that is the history of the apple business in the United States and all over the world, as far as that is concerned. Wherever one has an apple orchard district, one has frost to contend with. The river bottom lands are very much worse than the hill lands. Frost is like boiling water, as long as one keeps it stirring and moving, it don't settle, but as soon as one stops it on flat lands, in a pocket, then it settles and the frost gets the fruits. This pear orchard of Scoville's is on red hill land. There are railroad lands in that vicinity, and there are railroad lands of the same character as the Scoville lands and he does not know of any reason why the railroad lands could not be used for the same purpose as the Scoville lands. This mildew on grapes of which he spoke is not peculiar to the Grants Pass district, but is general all over the world, any grape should have the use of dry sulphur, and it is not peculiar

to the tokay grape, that is one of the processes that has been developed by experience to prevent mildew in grapes. It is the one pest, the only thing they have to contend with in regard to grapes, and they have that same thing to contend with elsewhere. He is not very much familiar with the copper industry in Montana.

Whereupon witness testified:

Q. Do you not know that the mines at Butte, a very large percentage of the ore is shipped by the Amalgamated Copper Company to Anaconda, a distance of some 24 or 25 miles to be smelted, and about as large a proportion shipped from Butte clear to Great Falls, a distance of over 200 miles, to be smelted?

A. Isn't it a fact that the ore, smelting ore, in order to get the proper flux has to be shipped in from a great many different mines, and isn't it a fact that hardly a smelter in the United States is on the ore body itself, and isn't it a fact that it all has to be shipped?

Q. I want you to answer that. Is that your understanding?

A. That is my understanding of it.

Whereupon witness testified that he has heard of the large smelters of Great Falls, Montana, operated by the Amalgamated Copper Company and knows that it had for a great many years the largest copper smelter in the world.

Whereupon witness testified:

Q. And Great Falls is the quotation grade of cop-

per the world over today—quoted abroad as “Great Falls or better?” You know that, don’t you?

A. I knew that that was used as a standard. This proposed line, they would take right through our copper belt, from Grants Pass to Crescent City.

Whereupon witness testified, that he knows of instances where these unsold railroad lands are worth from \$100 and \$200 to \$300 per acre for use for agriculture and horticulture and that has no reference to their value for timber or mining or anything other than agriculture and horticulture. These lands join the city limits of Grants Pass on two sides. The railroad lands adjoining Merlin, are more valuable and the Company has lands back a few miles from the railroad that would be worth \$100 an acre, \$50 an acre, \$40 an acre. The lands that are closer to the railroad are worth more than those farther back. The difference is on account of transportation, and there is no other difference, so that if transportation facilities should be provided, that difference would be to that extent wiped out. He knows of a great many tracts of railroad land worth from \$25.00 up, a great many tracts up to \$50 per acre for agricultural and horticultural purposes and that could be sold for that if offered. He does not refer to their value for timber, he is speaking of horticulture, and agriculture exclusively. They are worth more for that than for timber, timber would not be worth that much. This thirty-five per cent of land that he says has no particular value except for grazing purposes in connection with other lands is

scattering, it is the points and ridges, the tops of ridges along the high lands. There are quarter sections of that character of land, as to entire sections there would be a long strip, perhaps, up the ridge, something of that kind, but it would not include any one whole section, it would be a section in acreage or area, a whiplash proposition, a long strip of land.

Whereupon witness testified:

Q. Now, you are more familiar with this general subject than I am, Mr. Sherman. I don't want to detain you any longer unless you have in mind something to explain with reference to questions that have been asked you, either by Mr. Fenton or by myself, that would throw any light upon these general questions that have been put to you.

A. I see, a great many questions Judge Fenton asked in regard to cultivated lands or donation lands—I don't know that the lands that he referred to are all donation lands. There was very little clearing and developing done in that district after the construction of the railroad for a term of years. The way I would explain that would be from the fact—

Mr. Fenton: How do you know this, Mr. Sherman?

A. Well, from the conditions of the clearing and from the length of time that the lands have been cleared.

Mr. Fenton: You get that as a matter of general

history, not from personal knowledge?

A. The age of trees planted, and the age of buildings, and what the people tell me.

Q. Well, Mr. Sherman, your information on that subject is just as accurate when I question you about it as when Judge Fenton questions you, isn't it?

A. Yes, sir.

Mr. Fenton: I am not questioning that. I just want to know how he obtains it, whether from personal knowledge or whether it is derived from his general historical knowledge.

Q. Well, now, what you were about to say is in explanation of the testimony you gave in answer to the questions asked you by Judge Fenton, is it?

A. Well, I am kind of talking the thing over here with you folks here, to bring out the points and the truth of the matter. That is the way I am doing.

Q. Well, proceed, Mr. Sherman.

A. The point that I was going to make was in regard to the length of time that it appeared elapsed without any development in the district, which Judge Fenton bordered on. Now, at the time of the construction and before the construction of the railroad, the settlers and people who came in there saw that there would be sale for a great deal of products during construction days; and they cleared and plowed and planted and harvested crops to feed the people that were coming in at that time, the people that were working on

the roads, and so on. Well, after the road was built, in a few years things laxed a little, and there was a period of a good many years that there was very little clearing, if any. I guess there was fifteen years that there was, practically speaking, very little development done in the district. And then it came a time when the people commenced coming into that district, and they started clearing again. That first clearing was all done on the river bottom lands, and the later clearing has all been done on the hill lands.

Q. Are they clearing now on the hill lands even in preference to the bottom lands?

A. The development these days is on the hill lands.

Mr. Fenton: The bottom lands are all cleared, aren't they?

A. Largely—largely all; not all; they are largely all cleared. There is a great deal of bottom land—quite a good deal of bottom land uncleared; but you see they are going to the hills for the fruit. Many of them are talking now that we should take out the trees from the river bottom lands, and put in hay and grasses and so on, and plant the orchards on the hills altogether. They feel that way about it; they commence to see, just as they have in all other districts, that the hill lands are more valuable for fruit than the river bottom lands.

STIPULATION.

Mr. Townsend: It is stipulated that E. J. GROVER, if called as a witness on behalf of the

Government, would testify substantially the same as the witness Charles A. Edmondson concerning substantially the same area of lands, and that his testimony would be substantially the same both upon direct and cross-examination, and redirect examination, and that his testimony shall be considered as having been offered and received, subject to the same objections that were urged to the testimony of the witness Edmondson.

I think I should qualify the foregoing offer by saying that Mr. Grover did not live in that vicinity as long as the witness Edmondson, and that there would be a difference in their testimony in that respect. Mr. Grover lived there during a period of eight or ten years, while the witness Edmondson lived there a much longer period.

Mr. Fenton: You cannot tell between what dates?

Mr. Townsend: I am willing for the record to show that he lived there between 1902 and 1911. He has been away from there about a year.

Mr. Fenton: Where does he reside now?

Mr. Townsend: He now resides in Portland.

STIPULATION.

It is stipulated that M. F. McCOWN, a witness on behalf of the Government, if called, would testify upon direct examination substantially as follows:

I have lived in Jackson County, Oregon, since July, 1900, and in Oregon all my life, having been born at

Oregon City, said State. I have been cruising timber since 1891, and have been cruising and surveying, mostly in Jackson and Josephine Counties, Oregon, since July, 1900. In 1906 and 1907, or 1907 and 1908, I spent about a year cruising lands for the Southern Pacific Ry. Co. to take the place of data lost by them during the San Francisco, California, fire. While so cruising for said company, Messrs. King and Cavell were associated with me part of the time, we three working from the same camp. In cruising the lands, we made special note of the timber, and also noted the agricultural and grazing lands, afterwards making maps and notes for the company showing these various features. Either while in the employ of said company or while at work for private parties, I have cruised over most of the lands in Jackson and Josephine Counties, and am very familiar with the railroad lands therein.

I have had about two years of experience in farming work, and have lived in small towns and agricultural communities all my life.

Of all the railroad lands in Jackson and Josephine Counties, Oregon, I estimate that about 75 out of each 100 quarter sections are suitable for settlement purposes; by that I mean that each of said 75 would support a family. I base this opinion on the fact that 75 percent of the quarter sections will average 25 to 30 acres of plow land to the quarter section, and most of the remainder of each such quarter section would be suitable for grazing purposes. This estimate of the amount of plow land to the quarter section I consider

is very conservative.

A large proportion of the lands I have classed as suitable for settlement purposes is good fruit land. It is stipulated that upon cross examination said witness would testify substantially as other like witnesses called by the Government have testified, on the general question of the suitability of these lands for settlement, the agricultural character thereof, the grazing character thereof, the timber character thereof, and the utilization for settlement purposes of these lands with which the witness was familiar, as disclosed by his direct examination.

This testimony to be received subject to the same objections made by either party to similar testimony.

STIPULATION.

It is stipulated that CHARLES M. COLLIER, a witness on behalf of the Government, if called, would testify upon direct examination substantially as follows:

I am a citizen of the United States, 54 years of age, and by profession a civil engineer, and my post office address is Eugene, Oregon. Since 1884, and during that time, have followed my profession as civil engineer, and most of my work being surveying, being County Surveyor for Lane County since 1886, and for a considerable part of said time have also held the office of City Surveyor for Eugene, and have also been Deputy U. S. Mineral Surveyor. I am familiar with and have surveyed over practically all of Lane County,

northern part of Douglas, and have surveyed more or less in Benton County. And during my work since 1886, have made Government surveys of nine or ten townships in Lane and northern Douglas Counties.

Based upon my knowledge of the topography of the country, character of the land, soil and so forth, I would say that, taking Lane County from its north and south boundaries and within the limits of the Grant limits of lands granted by Congress to the Oregon and California Railroad Company, and also as to that part of Douglas County north of the south line of township 20 South and within the limits of said grant, that approximately seventy-five per cent of the lands are suitable for settlement, that 50 per cent of said area is agricultural in character, and 50 per cent thereof grazing. A considerable portion of the area above described is timber or brush land, which covering would have to be removed before the agricultural lands can be utilized for agricultural purposes.

It is stipulated that upon cross examination said witness would testify substantially as other like witnesses called by the Government have testified, on the general question of the suitability of these lands for settlement, the agricultural character thereof, the grazing character thereof, the timber character thereof, and the utilization for settlement purposes of these lands, with which the witness was familiar, as disclosed by his direct examination.

This testimony to be received subject to the same objections made by either party to similar testimony.

STIPULATION.

Mr. Townsend: It is hereby stipulated that CHARLES V. GALLOWAY, if called and sworn as a witness on behalf of the Government in this cause, would testify in substance as follows:

I am, and for more than three years last past have been, Chairman of the Board of State Tax Commissioners, for the State of Oregon. As such officer I have become acquainted with the method of assessing real property in the several counties of the State of Oregon, including the classification of lands. I am also familiar with the methods by which the lands are classified in some counties as tillable and non-tillable lands. In eight counties of the State the assessors have made no classification of this kind. Those counties are Douglas, Klamath, Lane, Lincoln, Marion, Multnomah, Polk and Umatilla. Because of the fact that the assessment rolls for those counties do not distinguish tillable lands from non-tillable lands, all of the assessable lands in those counties are included as tillable lands in the statement of the summaries of the assessment rolls of the several counties of the State of Oregon, as equalized by the County Boards of Equalization, and compiled by the Board of State Tax Commissioners, as shown in Defendants' Exhibit 324, which covers the year 1911. In those counties where the local assessors do distinguish tillable lands from non-tillable lands, the county assessment rolls show this classification, and the lands are divided into the two classes of tillable and non-tillable lands. In those counties where this classification

is made, the practice has been to classify as tillable lands only lands that are actually under cultivation, and all other lands are classified as non-tillable lands. This practice was developed at the annual convention of the County Assessors held three years ago, and I caused inquiries to be made of all of the county assessors in the State, and thus became familiar with the foregoing facts. There may have been some slight variation as to this practice in some of the counties, but in none of them did it vary substantially from the statement made above. It has been the practice down to the present time for the county assessor of each county to file with the County Board of Equalization his original assessment roll of the county. Thereafter a duly certified copy of this assessment roll in each county, as equalized by the County Board of Equalization, is filed in the office of the Secretary of State, and the annual statements by the Board of State Tax Commissioners (for example, Defendants' Exhibits 324 and 325) are compiled from these certified copies on file in the office of the Secretary of State.

It is further stipulated that the foregoing shall have the same force and effect as if Mr. Galloway had been called and sworn as a witness and testified as herein above set forth, subject to such objections as the defendants, or either of them, may now desire to interpose.

Mr. Townsend: It is further stipulated that, in connection with the foregoing evidence of Mr. Galloway, the court shall take judicial notice of the provisions of the statutes of the State of Oregon relating to the

matter of assessments, and the county Boards of Equalization, and the Board of State Tax Commissioners, including all repeals, amendments and new enactments which were in effect at any time during the assessment of any of the lands involved in suit.

STIPULATION.

Mr. Townsend: It is further stipulated that JOHN W. KELLY, if called and sworn as a witness on behalf of the Government, would testify as follows:

That on September 2, 1907, he was a reporter for the Evening Telegram, a newspaper of general circulation published at Portland, Oregon, and that on said day E. H. Harriman, who was then President of the Oregon and California Railroad Company, visited Portland, and Mr. Kelly called upon him for an interview. The interview was had, and Mr. Kelly will swear that the statements made by Mr. Harriman to him at that time, including the interrogations by Mr. Kelly and the substance of the answers by Mr. Harriman, were in substance as follows:

“What can I do for you? Ask all the questions you like,” was Harriman’s salutation.

“Well, what do you think of Oregon since your trip?

“I know as much about Oregon as any man in Portland. I knew it before the trip, for I have had reports. I was not even surprised at the number of settlers, for I had reports on them. What impressed me more than anything else in Oregon is the climate.

It is the greatest climate for August I have ever found anywhere. There is nothing to beat it."

"What conditions did you find in the interior?"

"Sparsely settled regions. You go miles and miles before you see a face, or a habitation. I traveled vast stretches and saw nothing but chipmunks. The country is undeveloped. Oregon needs more people. I passed forest reserves and timber-land granted to military wagon road companies. The reserves and the military road companies control too much land. This should be remedied. The reserve policy requires changing and the military road companies should be made to dispose of holdings."

He includes the S. P.

"Then, Mr. Harriman, your contention is that Oregon cannot be properly nor speedily developed until the corporations which have vast holdings are forced to open the country, to dispose of the lands?"

"Yes."

"And does this include the lands granted to the Southern Pacific?"

Mr. Harriman permitted a smile to flit across his countenance. He wore eyeglasses, but took another pair from his pocket and polished them before making reply.

"Yes," said he, "the Southern Pacific, too, but the Southern Pacific hasn't much land. You see, before we came into the Southern Pacific, the company was

pressed for money and was disposing of lands and giving options to syndicates and speculators, and we didn't know how much land we had, so we stopped until options expired, to ascertain just what we had in land. The Southern Pacific will sell land to settlers, but not to speculators. We can tell a speculator from a settler as well as anyone. The agricultural land we will sell, but the timber-land we will retain, because we must have ties and bridge timbers, and we must retain our timber land for future supply. The Southern Pacific has an insufficient amount of timber now, and we have had to buy large tracts, looking to the future supply of ties and material. Yes, we will sell to settlers, but speculators will get none.

“One has to travel now long distances before coming to a cultivated district, and then travel another long distance before coming to another. Between these points there is nothing. The trouble with a railroad is that when it has been built you have to keep operating it, whether it is self-supporting or not. You can't pull up the track, put it in your pocket and take it to a more fruitful section.”

This observation of Mr. Harriman is the only clew as to his intentions in Central Oregon. It might be construed that he does not believe the time ripe to project a line through that section, inasmuch as he found it weakly settled, but well developed where the settlers were.

“Of course,” resumed the railroad magnate, “the

isolated spots under cultivation will gradually enlarge and spread, eventually reducing the unoccupied stretches between, but it takes time and is retarded by the reserves and the holdings of the military wagon road companies.”

Mr. Fenton: Defendants object to this testimony offered, on the ground that the same is incompetent, immaterial and irrelevant, and particularly upon the ground that it is hearsay, and that if the statements were thus made by Mr. Harriman, he was without authority or power to make an admission or statement binding upon the defendants, or any of them, as the act or deed or admission of any of the defendants.

Whereupon complainant offered and there was received in evidence a deed dated August 7, 1886, from the Northern Pacific Railway Company to the City of Portland, for a right of way over certain lands and which the complainant contends is the deed referred to in Section 5 of the Forfeiture Act of September 29, 1890, which exhibit was received in evidence and marked “Government’s Exhibit 128” and is hereinafter set out and described and made a part of this Statement of the Evidence and identified as “Government’s Exhibit 128.”

Mr. FENTON: Mr. Townsend desires to make a statement under oath, and the defendants consent that he may make this statement in his own way, without any questions, direct or cross, being propounded to him.

B. D. TOWNSEND, being called as a witness on behalf of the government, and being first duly sworn

to testify the truth, the whole truth and nothing but the truth, testified as follows.

MR. TOWNSEND: There are three subjects which I find myself compelled to explain into the record. Of course I asked permission to testify in the case reluctantly, but find myself under obligation to do so because of the facts as I will detail them.

When I first was employed by the government in connection with the Oregon and California land grants I was Assistant United States Attorney for the District of North Dakota, and received a telegram from Attorney-General Bonaparte in May, 1908, asking me if my time and other engagements would permit me to go to Oregon to prepare a bill in equity for the government. I did not know at that time to what the subject of the telegram related, or what kind of a suit was to be instituted. I went to Oregon, arriving there in June, 1907, and found that no preparation had been made for the institution of the suit. I then set about investigating this entire general subject and collected all of the information that I could concerning these grants for the purpose of submitting it to the attorney-general. At that time I understood that I would not be employed in the suit when instituted, and at the time that my work would simply consist of an investigation of the subject with a report to the attorney-general and to Congress so that they might take such action as they desired. It thus transpired as I was seeking information I would call before me certain men whom I understood had such information, and I interview

them and put their interviews in the indirect form as statements by myself of the facts that these different persons had stated to me. In that way the statement of Mr. Elliott, which was referred to in his cross-examination, was made. However, those statements were carefully prepared in the presence of the various persons making the statements and were revised by them, not only as I dictated the statements, but also after they had been transcribed on the typewriter. It is not a fact, as stated by Mr. Elliott, that at any time during my interview with him I indicated to him that I thought that he was adverse to the railroad company and would therefore give me information. The truth is, that with Mr. Elliott, as with several other persons who had formerly been employed by the railroad company, I exercised all the caution I could to see that no colored information was conveyed to me, and I expressly stated, I remember, to Mr. Elliott that I did not want any information based upon prejudice, but was seeking a correct statement of the facts to be presented to the attorney-general. I did not take those statements at that time with the idea of using them as evidence. At that time I did not know that the attorney-general would institute the suits. If I had known that the statements would ever be used as evidence, I, of course, would have had some one else take them so that my testimony would never be necessary to verify them. It was my actual endeavor at that time to see that the information which I reported to the attorney-general and Congress was accurate, and in this connection, it is right and fair that

I acknowledge that the railroad company gave me access to all of their records and such documents as I asked for, and I spent approximately sixty days abstracting their minute books and getting records of the company. I did this work in one of the offices of the company which they kindly furnished me for that purpose.

The next subject that I desire to cover by my statement relates to correspondence which took place in the year 1872, relating to the construction by the Secretary of the Interior of the provisions of the Act of April 10, 1869, which the company contends annexed to the grant and condition restricting the manner in which the grant of lands might be sold. This correspondence has been introduced in evidence as Government's Exhibit 109, and is also covered in part by some of the exhibits that have been introduced by the defendants. This correspondence was discovered in the files of the interior department by Mr. Griffith, and others acting with him, in making a search of those files. As soon as this correspondence was called to my attention I went to the Department of Justice to secure access to all the old files of the department. I made a search of those files myself instead of entrusting it to others, for the reason that I was very anxious to find anything that might be on file in the Department of Justice relating to the subject. The chief of the files and mails division of the Department of Justice explained to me thoroughly the old filing system of the department and turned the old files over to me. They were all separated

in the basement and I was able to pursue my search without interruption. During the years 1860 to 1875 there was a correspondence register or docket kept by the Department of Justice and in this book was recorded the letters received by the department and also letters written by the department. These correspondence registers or dockets were consecutive so that I could see that they were complete. I made a careful search of those dockets and could find no letter recorded there with reference to the correspondence which appears in Government's Exhibit No. 109. In making the search of these correspondence registers, I did not confine myself to any particular name, but actually ran through the dockets completely during the period covered by this correspondence, and as stated above, found no record of any correspondence upon the subject. The letters referred to in Government's Exhibit 109, written by George H. Williams, and addressed to him, were nowhere of record in the Department of Justice. In addition to searching these correspondence registers, I actually searched all the old files themselves and to assure myself that my search was complete I actually searched all of the files covering that period. I did not limit myself to any particular file where documents on a given subject were filed. The filing system at that time was by states. The correspondence received from Oregon, for instance, being kept separately in one file, and the same as to all of the other states. I think during the latter part of that time that that system was in vogue, that where there was more than one judicial

district in a state, the correspondence was kept by judicial districts, but I did not confine myself to the files relating to the State of Oregon. I included California, because some of this correspondence originated in California. I included New York because Mr. Holladay lived there and I made every effort to locate any correspondence that might be of record in the department upon that subject, and I feel that I am justified in saying as the result of my search that correspondence never was made a part of the official files or records of the Department of Justice.

MR. FENTON: Let me at this point note an objection. Defendants object to the conclusion of the witness just stated, and as immaterial, and to the whole of the witness' testimony on this subject as immaterial.

MR. TOWNSEND: (Continuing) I wish to add upon that subject that I spent no less than two weeks making this search, and had with me at all times one or more persons assisting me, particularly Mr. A. P. Fulkerson, who, as a special employe of the Department of Justice, was assigned to assist me in the cases over which I have charge.

I also participated to a considerable extent in the search made by Mr. Griffith and Mr. Casey of the records of the General Land Office and in the office of the Secretary of the Interior, but my search there was not complete, and I relied in part upon the search made by Mr. Griffith and Mr. Casey. The search of the records in the Department of Justice was complete

on my part. Any assistance that I received from others was supervised by myself, and all of the documents were actually examined by myself as they got them from the files for me.

I wish to state in addition to the foregoing that during my search of the records in the office of the Secretary of the Interior, I found the pamphlet, a copy of which has been introduced in evidence as Government's Exhibit No. 105. This pamphlet bore the filing mark of the office, and it was filed as of some time in January, 1869, and accompanying those documents relating to the Act of April 10, 1869, as I remember it, was the committee report, although I am not positive as to that. This copy of the pamphlet, which was a printed pamphlet, I took from the files for the purpose of introducing it in evidence in this case, but in some way it has become lost and I have made a very careful search for it and am satisfied that it has been lost and that I cannot produce it. The pamphlet was the same as Government's Exhibit No. 105 with the exception of the filing mark which it bore, as I have stated above.

Mr. Fenton asked Mr. Griffith if he was sure it was Government's Exhibit No. 105 instead of Government's Exhibit No. 106. I am prepared to assure Mr. Fenton that there is no possibility of a mistake on that point because I was so familiar with those pamphlets and the documents, that I could not be mistaken. I do not think that the pamphlet issued by the west side

company, Government's Exhibit No. 106, was in the files. In fact, I am positive that it was not, because if it had been I would have taken that to be introduced in evidence, the same as Government's Exhibit No. 105. I do not recollect that there was anything else in connection with the filing of that pamphlet in the Secretary's office that would throw any additional light upon the subject other than what I have stated.

Referring again to Government's Exhibit No. 109, it will be observed on examining this correspondence, that the letter from the commissioner of the General Land Office, dated July 16, 1872, addressed to George H. Williams, as attorney-general, acknowledges the receipt of a letter dated June 27, 1872. We have never been able to find that letter or any copy of it. This is true, not only as to the Department of Justice, but also as to the Department of the Interior.

Mr. Griffith made a special search for that letter at my request, and when he testified yesterday that this was all the correspondence, he included that in his answer and that that letter could not be found. I am satisfied that it is true that the letter has either been mislaid or lost. The jacket in which this correspondence was filed in the General Land Office noted the fact of the receipt of this letter of June 27, 1872, but the letter itself was not within the jacket, although the other correspondence which has been identified as Government's Exhibit No. 109 was in that jacket. I think that is all I have to state.

TESTIMONY OF DEFENDANTS IN REBUTTAL

Whereupon FRED H. McCLURE, recalled by defendants in rebuttal, having been duly sworn testified on direct examination as follows:

Q. Mr. McClure, I show you photographs Numbers 91 and 92, purporting to have been taken by you October 4, 1908, of the cabin of D. McLafferty, which is a part of Defendants' Exhibit 270. Mr. McLafferty has testified that he and his wife were present at the time those photographs were taken, and that they wanted to be in the picture, and that you told them that they could not be in the picture, that your instructions were from the company not to allow any of these settlers to be shown in the photographs. Now, state what the fact is, as you recollect it.

A. I do not recall any instructions of that sort. I merely did that on my own responsibility. We photographers sometimes have to scheme around and take things in our own hands to get the pictures that we want, to overcome things that seem to be in the way. I did not think the people should be in it.

Q. Did you have any instructions of any kind from the company that these settlers should not be taken by you in the pictures?

A. No, sir, not that I recall.

Whereupon, on cross examination, witness testified:

Q. You do not mean to dispute Mr. McLafferty, then, as to whether you did refuse to let them be in the picture?

A. Oh, no. I may have told them. I probably told him I did not want him in the picture, on my own responsibility.

Whereupon, on re-direct examination, witness testified:

Q. You wanted the pictures to show the cabin and the improvements as nearly as they could?

A. Yes.

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No. 2400

United States Circuit Court of Appeals

Ninth Circuit

Appeal from the District Court of the United
States for the District of Oregon

OREGON & CALIFORNIA RAILROAD
COMPANY, A CORPORATION, *et al.*,

Defendants and Appellants

JOHN L. SNYDER, *et al.*,

Cross-Complainants and Appellants

WILLIAM F. SLAUGHTER, *et al.*,

Interveners and Appellants

vs.

THE UNITED STATES OF AMERICA

Appellee

—o—

TRANSCRIPT OF RECORD

VOLUME IX

PAGES 4285-4892

FILED

APR 4 - 1914

TITLE

NAMES AND ADDRESSES OF SOLICITORS UPON THIS APPEAL

For Appellants

OREGON & CALIFORNIA R. R. CO., *et al.*:

WM. F. HERRIN,
P. F. DUNNE,
J. E. FENTON,
San Francisco, Cal.

WM. D. FENTON,
Portland, Oregon.

For Appellants—JNO. L. SNYDER, *et al.*:

A. W. LAFFERTY,
Portland, Oregon.

For Appellants—WM. F. SLAUGHTER, *et al.*:

L. C. GARRIGUS,
A. W. LAFFERTY,
MOULTON & SCHWARTZ,
Portland, Oregon.

DAY & BREWER,
Seattle, Wash.

A. C. WOODCOCK,
Eugene, Oregon.

For Appellee:

JAMES C. McREYNOLDS,
Attorney General.

CLARENCE L. REAMES,
U. S. Dist. Attorney for Oregon.

B. D. TOWNSEND,
F. C. RABB,

Special Assistants to the
Attorney General.

No. _____

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Whereupon, it is certified that the exhibits offered and admitted in evidence on behalf of the parties to this suit, and hereinbefore referred to, set out and described in this Statement of the Evidence, are as follows, to-wit:

GOVERNMENT'S EXHIBIT 100-A

consists of the minute books of the Oregon Central Railroad Company, Portland, Oregon, (West Side).

**GOVERNMENT'S EXHIBIT
100-A**

JOURNAL OF MINUTES

OF

O. C. R. R. CO.

OF PORTLAND

VOL. I.

**Journal Record of the Proceedings of Meetings of
the Stockholders and of the Board of Directors
of the "Oregon Central Railroad Company."**

STOCKHOLDERS MEETING

Salem Oregon May 24th 1867.

At a meeting this day held at the office of the Company, B. F. Brown was duly made President & G. W. Lawson Secretary of the first stockholder meeting,

Whereupon came Seth R. Hammer holding the proxy of Thomas H. Cox Incorporator G. W. Lawson holding the proxy of M. M. Melvin Incorporator, Cyrus A. Reed holding the proxy of Joel Palmer, Incorporator and B. F. Brown and J. Gaston, Incorporators in person and also the present stockholders of said Company, and upon a ballot being taken for the Election of a Board of Directors the following named persons were duly elected Directors of the Oregon Central railroad company, to-wit William T. Newby, J. M. Belcher, B. F. McLench, W. C. Whitson and J. Gaston. The Incorporators appointed Saturday the 25th day of May inst. as the time and the town of Amity in Yamhill County as the place for the first meeting of said Board of Directors.

Whereupon the meeting adjd.

G. W. LAWSON,

Secretary

B. F. BROWN,

President

DIRECTORS MEETING

Amity Yamhill Co, Ogn. May 25th 1867

Pursuant to an appointment of the Incorporators

of the "Oregon Central Railroad Company" the Directors of said Company met at Amity in the County of Yamhill, State of Oregon on the 25th day of May A. D. 1867, and took the oath of office, and thereupon proceeded to elect officers for the ensuing year, which resulted as follows viz

For President.....J. GASTON

For Vice President.....J. M. BELCHER

For Secretary & Treas...W. C. WHITSON

The following resolutions were adopted.

Resolved: That this company accept the funds tendered by the citizens of Yamhill and Polk Counties, for preliminary expenses and to prosecute law suit to defend the Companys Corporate rights, on the terms tendered.

Resolved, that the Oregon Central Company hereby assent to the provisions of the act of Congress Entitled "An Act to aid in the construction of a Railroad and Telegraph from the Central Pacific Railroad in California to Portland in Oregon, approved July 26th 1866, and that the Secretary and President of this Company be instructed to forward a copy of this resolution to the Secretary of the Interior at Washington D. C. and file the same in his office.

Resolved, By the stockholders and Directors of this Company, that the principal business place or office of the Company be removed from Portland to Salem.

Resolved, that the President be instructed to go forward and collect any sums of money tendered under the proposition referred to above, and pay the same

over to the Secretary, and to solicit stock as opportunity may offer, and to continue to correspond with capitalists,

Resolved that the President and Secretary be instructed to proceed against the usurping Company lately organized at Salem, by suit to enjoin them, and that at least one Attorney be employed, to assist the Company, for that purpose,

There being no further business, the board adjourned.

W. C. WHITSON,
Secretary,

J. GASTON,
President

Amity Oregon August 29, 1867

Pursuant to call of the President the Board of Directors met at Amity to-day and appointed W. T. Newby Sec pro tem. Upon consideration W. T. Newby was appointed a Committee to confer with D. C. Lewis, Civil Engineer, for the purpose of engaging his services to survey and locate the first sixty miles of the Road. On motion Board adjourned to meet at Wheatland on Sept 14, 1867.

W. T. NEWBY
Sec Pro. tem

J. GASTON
President

Wheatland, Sept 14, 1867

Pursuant to adjournment the Board met at Wheatland today.

On motion it was resolved to offer the stock of the Company for sale to the Oregonians at twenty five dol-

lars per share in gold coin, or such equivalent as the Company may accept.

On motion it was resolved to invite Col Thos R Cornelius of Washington County to meet with the Board in future until he shall be elected a Director, or until the first twenty miles on the road is finished, for advice and consultation.

On motion it was resolved that the Directors of the Company should be entitled to five dollars per diem and expenses, for the time actually engaged in the service of the Company, until further orders.

Mr. Newby reported that he had employed D. C. Lewis as Chief Engineer, and necessary assistants to make survey, and that they were to commence on Monday Sept 23rd 1867, Mr. Lewis to have eight dollars per day.

Report accepted and Mr. Newby ordered to complete arrangements for the surveying party.

On motion the Board adjourned to meet at Hillsboro on Sept 24, 1867.

Mr. Lewis to be directed to commence at West line of City of Portland at mouth of Canyon and make trial or preliminary survey to head of Canyon in Washington County.

W. T. NEWBY,
Sec, Pro, Tem.

J. GASTON,
President

Hillsboro, Washington Co, Oregon, Sept. 24, 1867.

Pursuant to adjournment the board met at Hillsboro today, Sept. 24, 1867.

On motion, J. Gaston, W. T. Newby & T. R. Cornelius, were appointed an executive committee, with power to transact business of the board of Directors until further orders, and to call a meeting of the board at any time.

The following resolution was unanimously adopted.

Resolved. That we locate the Oregon Central Railroad on the nearest and best route taking into consideration the inducements offered on the different proposed routs, and the advantages for trade and business. Provided that the main road shall never cross to the East side of the Willamette River, and Provided further that said road shall run through the Tualitin plains in Washington County, Oregon.

On motion, the board adjourned until tomorrow morning at Eight o'clock.

September 25, 1867

Board met pursuant to adjournment, when the following resolution was passed,

Resolved, that Books be opened for the subscription of stock to this Company in Washington County, Oregon, as follows, viz:

"We the undersigned, The persons whose names, "are hereinafter subscribed in this book, hereby subscribe for the number of shares of the Capital stock of

“the Oregon Central Railroad Company as are set opposite our names, and agree to take and pay for the same at the rate of twenty five Dollars per share in U. S. Gold coin, (The Government aid granted for the construction of said Railroad being considered equal to seventy five Dollars per share, or seventy five per cent of the cost of said road) The payment of twenty five Dollars per share shall be in full payment for said shares. One fourth of the said subscription to be paid on demand, and one-fourth every sixty days thereafter, until paid in full. And the money so paid shall be applied to the construction of a railroad passing through Tualitin Plains of Washington County, Oregon.

On motion it was resolved that the office of the Company be removed from Salem to Portland.

On motion it was resolved that the Treasurer of the Company be required to give bonds in the sum of Fifty Thousand Dollars in Gold coin.

On motion it was resolved that the following be adopted as the By-laws of the Oregon Central Railroad Company

Sec 1st

The following rules adopted by the Board of Incorporators are hereby ratified and confirmed in all respects.

1st shares may be subscribed and paid for with “claimed” or improved lands, rating them at a fair cash valuation.

2nd All persons who paid money or property in aid of "Barrys Railroad Survey," made in 1864, shall be entitled to have the same credited to the amount of ten per cent upon any subscription of one or more shares, provided they furnish satisfactory evidence to the board of directors, of payment in said year.

3rd. The board of directors shall have the right to reject, any subscription or subscriptions, for fraud or other matter bearing upon the interests of the company.

4th Neither the board of incorporators nor board of directors shall ever have any right or power to sell or dispose of the corporate franchises of this company, without a three fourths vote of all the stock subscribed in favor of such sale; but this proviso shall not be construed to prevent the Board of Directors from raising money to construct the companys road by a mortgage of its lands or other Real Estate, railroad or equipment; and in all questions upon which the Board of Directors may not unanimously agree, any stockholder may appeal, to a decision of a majority of the stock, which decision shall be final.

5th The above articles are hereby made a part of the contract of subscription between the stockholders and said Company.

Sec 2nd.

Each and every stockholder shall take his shares of stock, subject to section one and the succeeding By-laws.

Section 3rd

When any stockholder shall appeal from any action of the board of directors, he shall serve notice of the appeal upon the secretary of the company, who shall immediately call a meeting of all the stockholders by giving thirty days notice of such meeting stating the time, place and object of the meeting: the notice to be published in one or more of the daily papers of Portland

Section 4th

The fiscal and business year of this Company shall commence on the First day of June and terminate on the last day of May; and the President, Secretary Treasurer and chief engineer, shall each make a report at the close of each year.

Section 5th

The office of the Company, and of the President, Secretary, Treasurer, and Chief Engineer, with the books and papers thereto belonging, shall be kept in the City of Portland, from and after the work of constructing the road has commenced

Section 6th

The Board of Directors shall hold regular monthly meetings, at the Companys office unless otherwise directed by the Board, and a majority of the Directors shall constitute a quorum to do business. Special meetings may be called by the President.

Section 7th

There shall be elected annually five Directors, who shall hold their office one year, and until their successors are elected and qualified; And at the first meeting of any new Board of Directors they shall elect from their number a President, Vice President and Treasurer; and they shall appoint a Secretary and Chief Engineer who need not be directors, all of which officers shall hold their offices for one year, and until their successors are elected and qualified, unless removed sooner by the Board of Directors; and they shall each be entitled to such compensation for their services, as may be allowed and agreed upon by the Board of Directors. Before entering upon the duties of their offices, the Secretary and Treasurer shall each give bond in such sums and with such sureties as the Board shall approve. But no office shall be created, nor election of Directors or officers held at any other time or manner, except to fill vacancies, than as herein provided.

Section 8th.

The President of the Company shall have a general supervision and direction of the business and affairs of the Company, subject to the direction of the board of directors; and he shall preside at all meetings of the Board of Directors and of the Stockholders and shall certify who are elected directors by the Stockholders, and officers by the Directors. In case of his absence, death or resignation, the Vice President shall act as President. It shall be the duty of the President, unless

otherwise specially ordered, to sign in conjunction with the secretary, all deeds, bonds, certificates of stock, warrants on the Treasurer, all contracts, and the records of each meeting of the stockholders and directors. He shall also have the custody of the corporate seal and shall affix the same to all papers requiring a seal.

Section 9th.

The Secretary shall attend all meetings of the Board of Directors and of the Stockholders, and shall keep a record of their proceedings. He shall have the charge and care of all papers belonging to the company except executed bonds, and all notes, checks and other papers, for the payment of money to the Company. He shall keep the books of accounts, stock transfer book, list of original stockholders, and records of proceedings; and he shall keep the account books of the Company by "Double Entry" and be ready at any time to show the debts, credits and property of the Company—keeping an account with the Treasurer, showing the property in his hands. He shall certify to all assessments levied by the Board, and the stock subscribed, and furnish the Treasurer bills of the same for collection and charge him therewith.

The Secretary shall in conjunction with the President, sign all certificates of stock all notes, bonds, warrants on the Treasurer and all contracts and deeds. The Secretary shall also keep a record of all lands belonging to the Company, received by it, either by donation of Congress, donation of individuals or purchase, and

also all sales of the same, showing time, parties, consideration, and disposition of proceeds.

Section 10th.

The Treasurer shall receive take charge of and keep safely and disburse under the order and regulations of the board all moneys notes, bonds, subscription books, deeds, mortgages, bullion, currency credits and evidences of debt of every kind belonging to the Company and shall give an account of the same to the Secretary, upon his reception of any such property. He shall upon the order of the Secretary, collect all assessments on stock levied by the board, and receive and receipt for all moneys and credits of every description, coming to the company; and shall make full and correct accounts in proper books, always showing the condition of the treasury, and shall render monthly and annual statements of the condition of the treasury to the Board of Directors.

Section 11th.

The chief engineer when appointed, shall hold his office during the pleasure of the Board of Directors. It shall be his duty under direction of the Board to take charge of the surveys, location and construction of the Companys Railroad and other works and make such maps, reports, estimates and other engineer services as may be required of him from time to time.

Section 12th

At the first meeting of the Board of directors, they

shall annually elect an executive committee, which shall be composed of the President Ex-Officio and two Directors; which Committee or a majority thereof shall meet as often as once a week, during the construction of the Companys Railroad; and it shall be the duty of the Committee to Examine and audit all claims against the Company and allow the same before the President and Secretary are authorized to pay the same. The Committee shall meet once every day, if the business of the Company in their opinion, demands it; and no contract of indebtedness can be entered into for more than one thousand dollars by either the President or Executive committee which shall bind the Company without the previous approval or subsequent ratification of the Board of Directors.

Section 13th.

The annual meeting of the stockholders of this Company shall be held on the twenty-fifth day of May in each year; and the first meeting of the succeeding board of Directors shall be held on the first business day thereafter or upon the call of the President, in each year; Said meetings to be held at such places as the Board of Directors shall appoint

Section 14th

The Board of Directors shall elect an Attorney, who shall hold his office for such term as may be agreed upon and who, shall have the care and management of all suits, causes, actions and litigated matters in which the company is interested and advise the Board or the President

upon such questions as they shall submit to him and receive such compensation as shall be agreed upon

Section 15th

All subordinate officers and agents of the Company, shall be appointed or employed by the Board of Directors, President or chief engineer in the several divisions of service as may be regulated by the Board and compensation and wages shall be determined by the Board alone

Section 16th

The Board of Directors shall have power at any time to remove any officer or agent, for malfeasance or incompetency in discharge of his duties

Section 17th

All elections of Directors and officers by either stockholders or Directors shall be by ballot; and all committees shall be appointed by the President in meetings of Directors or stockholders, unless otherwise ordered in these by-laws

Section 18th

The Board of Directors shall prescribe the manner, times and places for taking subscriptions to the Capital Stock of the Company

Section 19th

Installments or assessments upon the stock subscribed shall be levied, demanded and called for in such

manner and at such times as shall be required by the Board of Directors; and if any installment or assessment so levied and demanded, shall remain unpaid after due notice given or published thirty days in one of the daily papers of the city of Portland, the Board may at their option either collect the delinquent installment by ordinary action at law or proceed to sell the shares of stock so delinquent at public auction at the office of the Company, first giving thirty days notice in said paper, of the time and place of said sale, the number of shares to be sold the amount delinquent thereon and the name of the delinquent stockholder

Section 20th

No certificates of stock shall be issued except for fully paid up stock and all such is transferable upon the books of the company, upon the surrender of the original certificate and proper evidence in writing of a bona fide assignment

Section 21st

All disbursements shall be made upon warrants drawn upon the treasurer, by the President and Secretary; but no such warrants shall be drawn without the allowance by the Board of Directors or the Executive committee and each warrant so drawn shall refer to the number of the account allowed and the nature of the transaction it is intended to pay

Section 22nd

All subscriptions of stock and donations, shall be collected by the treasurer or regularly authorized agents

appointed by the Board of Directors and said agents may be required to give bonds for the faithful performance of their duties and all moneys so collected shall be paid into the treasury the Treasurer giving his receipt therefor

Section 23rd

Vacancies in the Board of Directors, caused by Death resignation or removal by the Board, shall be filled by a majority vote of the other directors in office and such Director or Directors shall hold office until the first meeting of the Stockholders, when such vacancy shall be filled by them

Section 24th

These By-Laws may be altered or amended, at any meeting of the Board of Directors by a majority of the Directors present

The resignation of B. F. McLench as one of the Directors of this Company was presented as follows,

“To the Board of Directors of the Oregon Central Railroad Company: It being impossible for me to attend regularly the meetings of the Board I hereby tender my resignation as Director in said Company Spring Valley Sept. 21, 1867 (signed) B. F. McLench.”

Upon motion said resignation was accepted and Thos. R. Cornelius unanimously elected to fill said vacancy

On motion the Board adjourned to meet at the call of the President

W. C. WHITSON

Secretary

J. GASTON

President.

Portland Oregon December 16, 1867

Pursuant to a call of the President of the Board of the Oregon Central Railroad Company, the Board of Directors met at Portland on Dec 16th 1867. Present J. Gaston, W. T. Newby, Thos R. Cornelius and W. C. Whitson.

On motion it was resolved that the Secretary proceed to notify the Stockholders of said Company that the first installment of twenty five per cent of the Cash subscriptions in Washington County to said Company is now due, and to demand and collect the same immediately

On motion it was resolved that the Executive Committee continue to canvass the Willamette Valley for subscriptions to the Capital Stock of the Company

On motion it was resolved that the Company adopt as a seal for the Corporation, with the following inscription—Cut of a plow, spade, rake and two (SEAL) sheaves of wheat, with the word “Portland” above and “Oregon” below, the whole to be surrounded with the words “Oregon Central Railroad Company of which seal the above and annexed is a Copy or *fac Simile*.”

On motion the Board adjourned to meet subject to a call of the President.

W. C. WHITSON
Secretary.

J. GASTON
President

Portland Oregon, February 13, 1868

Pursuant to a call of the President of the Oregon Central Railroad Company, the Board of Directors met at the City of Portland, on February 13, 1868. Present, J. Gaston, W. T. Newby, T. R. Cornelius and W. C. Whitson. Minutes of last meeting read and approved

The resignation of J. M. Belcher as one of the Directors of this Company was presented by W. T. Newby as follows,

"To the Directors of the Oregon Central Railroad Company: Gentlemen, you are hereby notified that I have by these presents resigned the offices of Directors, Vice President and Treasurer in the Oregon Central Railroad Company of Portland, Oregon

Respectfully

Lafayette Feb. 11, 1868 J. M. BELCHER"

On motion said resignation was accepted and J. C. Ainsworth unanimously elected to fill said vacancy.

On motion it was "Resolved, that this company does hereby accept the proposition contained in the first nine sections of Ordinance No. "468" passed by the City Council of the City of Portland on the 5th day of February A. D. 1868, and approved by the Mayor on the 6th day of February A. D. 1868, entitled "An Ordinance to secure material for public buildings and the construction and repair of streets adjacent to the public grounds, and for other purposes and to levy a special tax therefor."

And (it was further resolved) "that the President and Secretary of this Company be and they are hereby directed and authorized to enter into and execute an agreement in writing embodying therein the provisions of said Ordinance No. "468" and binding this Company to faithfully perform all the conditions and considerations on the part of this company specified in said ordinance; and attach to said Agreement the official signatures such President and Secretary and the seal of this Company and file the said Agreement with the Auditor of the said City of Portland."

W. C. Whitson tendered his resignation as Treasurer, which was accepted and R. C. Kinney unanimously elected to fill said vacancy, whose bond in the penal sum of Fifty Thousand Dollars for the faithful performance of his duties was presented by W. T. Newby and approved by the Board

The following was adopted as an additional by-law.
Section 25th

The duties of the Treasurer as defined by By-law No. 10, shall not be construed to allow the Treasurer to retain possession of his official bond, but such bond shall be kept by the Secretary.

On motion it was resolved that the railroad of this company be located through Washington County on the most practicable rout from the Summit of the mountain in "Cornell pass" to the lower end of Wapattoo Lake.

On motion the Board adjourned until tomorrow morning at Eight o'clock.

Friday, February 14, 1868

Board met pursuant to adjournment, Present as of yesterday with the addition of J. C. Ainsworth.

On motion it was resolved that the Secretary proceed to notify the Stockholders of said Company, that the second installment of twenty five per cent of the Cash Subscriptions in Washington County to said Company is now due, and to demand and collect the same immediately.

On motion it was resolved that the resolution adopted at Hillsboro on Sept. 25, in which subscriptions were allowed to be taken at Twenty five Dollars per share, be and the same is hereby revoked and hereafter no stock in this Company shall be sold for less than face or par value of the certificates of stock, and for all money (or notes given in lieu thereof) paid in the purchase of the Certificates of stock of this Company, certificates shall only be issued for as many Dollars as there is money paid or notes given.

On motion it was resolved that all the papers and documents of this Company be spread upon the Journal, as follows, viz:

THE ARTICLES OF INCORPORATION

FIRST:

“Know all men by these presents: that the undersigned citizens of the State of Oregon, do hereby associate ourselves together as a private incorporation under

and by virtue of the provisions of the General Incorporation law of said State.

1st. The Corporation hereby created shall be known as the "Oregon Central Railroad Company": and its duration unlimited.

2nd. The object and business of the Corporation, shall be to construct and operate a Railroad from the City of Portland, through the Willamette Valley to the Southern boundary of the State: under the laws of Oregon, and the law of Congress recently passed, granting land and aid for such purposes

3rd. The Corporation shall have its principal office in the City of Portland.

4th. The Capital Stock of said Corporation shall be Five Million Dollars, divided into general and preferred interest bearing stock, in such proportions as the Incorporators, or a Board of Directors, may deem proper

5th. The Amount of each share of the Capital Stock shall be one hundred Dollars.

6th. The termini of the Railroad proposed to be constructed by said Company, shall be, for the Northern end at the City of Portland and for the Southern end, at some point on or near the Southern boundary of the State as may be hereafter determined by actual survey

In witness whereof we have here set out hands and seals this 29th day of September A. D. 1866

J. S. SMITH	(seal)	R. R. THOMPSON	(seal)
E. D. SHATTUCK	(seal)	JOHN MCCrackEN	(seal)
JOEL PALMER	(seal)	T. H. COX	(seal)
GEO L. WOODS	(seal)	J. H. MITCHELL	(seal)
S. G. REED	(seal)	F. A. CHENOWETH	(seal)
B. F. BROWN	(seal)	M. M. MELVIN	(seal)
I. R. MOORES	(seal)	J. C. AINSWORTH	(seal)
JESSE APPLEGATE	(seal)	C. H. LEWIS	(seal)
H. W. CORBETT	(seal)	J. GASTON	(seal)

(U. S. R. S.)

(5 cents)

State of Oregon,)
) ss.
 Marion County.)

Be it known that the persons whose names are attached to the foregoing Articles of Incorporation, appeared before me the undersigned, a Notary Public for and within said County and State, respectively at the times and places therein named, to wit: J. S. Smith, I. R. Moores, J. H. Mitchell, E. D. Shattuck, Jesse Applegate, F. A. Chenoweth, Joel Palmer and H. W. Corbett at Salem in said State on or about the 29th day of September, 1866, and M. M. Melvin at Salem on or about October 23rd 1866, and George L. Woods, at Salem on or about Nov. 10th 1866, and R. R. Thompson, J. C. Ainsworth, S. G. Reed, John McCracken and C. H. Lewis at Portland, Oregon, on the 16th day of November, 1866, and they the said several subscribing persons to the aforesaid Articles of Incorporation, did then and there, at the several times set forth in this Certificate

sign and seal said Articles before me and in my presence, and acknowledge the said signing and sealing to be their voluntary act and deed for the purposes set forth in said articles.

In witness whereof I have here set my signature as
(L. S.) Notary Public and attached my official seal
this 16th day of November 1866.

(U. S. R. S.)

J. GASTON,

(5 cents)

Notary Public.

State of Oregon,)
) ss.
County of Marion.)

Be it remembered that on this day personally appeared before me at my office in the City of Salem, Oregon, B. F. Brown, T. H. Cox and J. Gaston, who are all personally known by me to be the persons described in and who executed the foregoing conveyance. And each for themselves acknowledged to me that they executed the same for the purposes therein expressed.

(L. S.) Witness my hand and seal of office this the
20th day of November, A. D. 1866.

SETH R. HAMMER,
Notary Public."

SECOND:

"We the undersigned Incorporators of the "Oregon Central Railroad Company" hereby appoint Joseph Gaston of Salem, Oregon, Secretary of the Board of Incorporators, and authorize and designate him, as one

of the Incorporators of said Company, to prepare and open the Stock books of said Company under the following rules and regulations:

1st. The shares of the Capital Stock in said Company shall be subscribed for at their par value in Gold coin, or its equivalent in currency.

2nd. The "Board of Directors" may levy assessments as often as once in every sixty days, but not more than ten per cent shall be levied in such period.

3rd. Shares may be subscribed and paid for with "claimed" or improved lands rating them at a fair cash valuation.

4th. All persons who paid money or property in aid of "Barrys Railroad Survey" made in 1864, shall be entitled to have the same credited to the amount of ten per cent upon any subscription of one or more shares, provided they furnish satisfactory evidence to the Board of Directors of payment in said year.

5th. The Board of Directors shall have the right to reject any subscription or subscriptions for fraud, or any other matter bearing upon the interest of the Company.

6th. Neither the Board of Incorporators or Board of Directors shall ever have any right or power to sell or dispose of the Corporate franchises of this Company without a three-fourths vote of all the stock subscribed, in favor of such sale; but this proviso shall not be construed to prevent the Board of Directors from raising

money to construct the Company's road by a mortgage of its lands or other real estate, railroad or equipment and in all questions upon which the Board of Directors may not unanimously agree, any stockholder may appeal to the decision of a majority of the stock, which decision shall be final.

7th. As soon as the Capital Stock or one half thereof, of said Company, shall have been subscribed, the said Secretary is hereby directed to call a meeting of the Stockholders, in pursuance of the General Incorporation Law for the election of a Board of Directors.

8th. The above articles are hereby made a part of the contract of subscription between the Stockholders and said Company.

The above named Secretary shall open an office for the transaction of the Company's business, and proceed to the work of canvassing for subscriptions of stock in the Counties and Towns along the route of the road; and for such service said Gaston shall be allowed an annual salary of Dollars and such necessary expenses as office rent, stationery, fuel and traveling expenses.

The Hon. F. A. Chenoweth of Corvallis is hereby authorized and appointed to canvass Linn and Benton Counties at a salary of

R. R. Thompson, S. G. Reed, J. C. Ainsworth, M. M. Melvin, George L. Woods, F. A. Chenoweth, Joel Palmer, Edward R. Geary, S. Ellsworth, J. H. Mitchell, H. W. Corbett by his proxy, W. S. Ladd, B. F.

Brown, T. H. Cox."

(10 cents)

(U. S. R. S.)

THIRD:

"We the undersigned Incorporators of the "Oregon Central Railroad Company" hereby certify that we were present at an election of Directors at the first meeting of the Stockholders of said Corporation, held at the office of J. Gaston, Stock Commissioner of said Company, in Salem, Oregon, on the 24th day of May, 1867, and that William T. Newby, J. M. Belcher, B. F. McLench, W. C. Whitson and J. Gaston were duly elected by a majority vote of one half the Capital Stock of said Corporation, the Board of Directors for said Corporation to serve for one year from the date hereof, and we hereby appoint Saturday the 25th day of May as the time, and the town of Amity, Oregon, as the place for the first meeting of said Board of Directors; and we hereby authorize J. Gaston to notify said Directors of their election, and the time of said first meeting.

J. GASTON,

B. F. BROWN,

JOEL PALMER,

By C. A. REED, Attorney,

T. H. COX,

By SETH R. HAMMER, Proxy,

M. M. MELVIN,

By G. W. LAWSON, Proxy."

Salem, Oregon, May 24th, 1867.

FOURTH:

“We the undersigned Stockholders of the “Oregon Central Railroad Company” hereby consent to an election of the first Board of Directors for said Corporation by the Stockholders thereof at a meeting of the same to be held at the office of J. Gaston, Stock Commissioner of said Company in Salem, Oregon, on the 24th day of May 1867; and we consent to the holding of such meeting; and we do hereby designate the persons for whom we cast our votes, as such stockholders to be such Directors, to wit: for J. M. Belcher, Wm. T. Newby, B. F. McLench, J. Gaston, and W. C. Whitson, May 24, 1867.

M. M. MELVIN casts five votes per J Gaston.

W. C. WHITSON casts one vote.

B. F. McLENCH casts one vote.

W. T. NEWBY casts one vote.

J. M. BELCHER casts one vote.

J. GASTON casts 24,996 votes.”

(U. S. R. S. 5 cents)

FIFTH:

“State of Oregon, Marion County, ss.

I, J. Gaston, being first duly sworn to tell the truth, say that I will faithfully and honestly discharge the duties of a Director in the “Oregon Central Railroad Company.”

(Signed) J. GASTON.

Sworn to and subscribed before me and in my presence by the said J. Gaston this 24th day of May, 1867.

(U. S. R. S.)

C. N. TERRY,

(5 cents)

Justice of the Peace."

"State of Oregon, County of Yamhill, ss.

We, W. T. Newby, B. F. McLench and W. C. Whitson, being first duly sworn to tell the truth, say that we will faithfully and honestly discharge the duties of Directors in the "Oregon Central Railroad Company."

(U. S. R. S.)

W. C. WHITSON,

(5 cents)

W. T. NEWBY,

B. F. McLENCH.

Sworn to and subscribed before me and in my presence by the said W. T. Newby, B. F. McLench and W. C. Whitson this 25th day of May A. D. 1867.

(L. S.)

J. GASTON,

Notary Public.

SIXTH:

"State of Oregon, Yamhill County, ss.

I, James M. Belcher, being duly sworn to tell the truth say that I will faithfully and honestly discharge the duties of a Director in the Board of Directors of the Oregon Central Railroad Company, to which office I have been elected; and I hereby consent to the election of Directors made by the stockholders and Incorporators of said Company at Salem, Oregon, May 24th A. D. 1867.

J. M. BELCHER.

Subscribed and sworn to before me this 5th day of
June A. D. 1867.

(L. S.) As witness my hand and seal of office as
County Clerk of Yamhill County, Oregon.

(U. S. R. S.) S. C. ADAMS,
(5 cents) Clerk."

SEVENTH:

"State of Oregon, County of Multnomah, ss.

Know all men by these presents, that I Thomas R.
Cornelius, being first duly sworn to tell the truth, say
that I will faithfully and honestly discharge the duties
of a Director of the "Oregon Central Railroad Com-
pany" of Portland, Oregon," to the best of my ability.

T. R. CORNELIUS.

This is to certify that Thomas R. Cornelius appeared
before me, the undersigned, a Notary Public, for the
State of Oregon, on this 4th day of February A. D.
1868 and took and subscribed the oath above written.

(L. S.) Witness my hand and Notarial seal,

J. GASTON,
Notary Public."

EIGHTH:

"State of Oregon, County of Multnomah, ss.

I, J. C. Ainsworth, being duly sworn, depose and
say, that I will faithfully and honestly discharge the du-
ties of a Director of the Board of Directors of the "Ore-

gon Central Railroad Company of Portland," to which I have been elected.

J. C. AINSWORTH.

Subscribed and sworn to before me this 13th day of February A. D. 1868.

J. GASTON,
Notary Public."

NINTH:

"Know all men by these presents, that I, Thos. H. Cox, one of the Incorporators of the Oregon Central Railroad Company, hereby authorize, empower and appoint Seth R. Hammer as my Agent and Attorney, as such Incorporator, to act for me as such Incorporator, at the organization of said Company, and do any act necessary to perfect the organization of said Company, provided, it does not involve me in any expense or liability to pay money.

THOS. H. COX."

Salem, Oregon, April 25th, 1867.

(U. S. R. S. 10 cents)"

TENTH:

"Canyonville, Nov. 15, 1866.

Know all men by these presents, that I, M. M. Melvin, one of the Incorporators of the "Oregon Central Railroad Company," do hereby designate and appoint Joseph Gaston of Salem, Oregon, as another of the Incorporators of said Company to prepare and open the stock books of said Company.

(U. S. R. S. 10 cents)

M. M. MELVIN."

ELEVENTH:

“To J. Gaston, Salem, Oregon.

You are hereby authorized to represent me as a Stockholder in the Oregon Central Railroad Company, at a meeting of the Stockholders of said Co. to be held at Salem, Oregon, May 24th 1866, and cast five votes for me for such persons as Directors as you deem proper; and I hereby consent to a meeting of stockholders on said day.

M. M. MELVIN.”

Canyonville, May 18th 1867. (U. S. R. S. 10 cents.)

TWELFTH:

“Eugene City, Sept. 26, 1866.

J. Gaston, Esq.

Dear Sir: Of course I cannot know the details of your plan of R. R. Bill, but placing confidence in you to carry out the general idea as heretofore contemplated I have no objection to your making use of my name as Incorporator, if you think best in connection with such names as you own and those you designate in your letter and to that end I hereby authorize and empower to use my name as if personally present and acting in that behalf.

Yours Very Respy.,

S. ELLSWORTH.”

Attest:

J. W. SKAGGS (L. S.)

County Clerk.

THIRTEENTH:

Canyonville, May 18th 1867.

I hereby authorize Hon. G. W. Lawson to represent me as an Incorporator of the "Oregon Central Railroad Company" at a meeting of the Incorporators or stockholders of said Company, necessary to organize said Company, and to do any act for me and in my name, necessary to organize said Company, which will not bind me to pay money.

(U. S. R. S. 10 cents)

M. M. MELVIN.

FOURTEENTH:

Portland, Oregon, Dec. 15th 1866.

J. Gaston, Salem, Ogn.,

Dear Sir: I had intended until this evening to be at Salem on the 18th inst., business engagement, however, render it impossible for me to be there.

I do therefore appoint you as my proxy, to act for me, and in my name and stead as one of the Incorporators of the Oregon Central Railroad Company at a meeting of the Corporators to be held at Salem on Dec. 18th 1866—and I instruct you to vote upon that occasion for J. Gaston, Esq., as General Canvassing Agent of such Corporation.

Very truly yours,

(U. S. R. S. 10 cents)

J. H. MITCHELL.

FIFTEENTH:

This Agreement made and concluded this 14th day of February A. D. One Thousand Eight Hundred and Sixty-eight, by and between the Oregon Central Railroad Company of Portland, Oregon, a duly organized Company, duly incorporated under the laws of the State of Oregon, acting herein by and through their duly authorized President and their duly authorized Secretary W. C. Whitson, party of the first part, and the City of Portland by W. S. Caldwell, Auditor of said City, party of the second part, *Witnesseth*,

That whereas the said Oregon Central Railroad Company have accepted the propositions contained and embodied in the Ordinance of the City of Portland numbered 468, entitled "An Ordinance to secure material for public buildings and the construction and repair of streets adjacent to the Public Grounds, and for other purposes, and to levy a special tax therefor" passed the Common Council of said City on the 5th day of February 1868, and approved by the Mayor of said City on the 6th day of February 1868, a true copy whereof, certified to by W. S. Caldwell, Auditor of said City, is hereto annexed Marked "A" and made part and parcel of this Agreement, and whereas the said Railroad Company by a Resolution spread upon their Journal have directed their said President and Secretary to enter into an agreement in writing embodying therein the provisions of said Ordinance, and whereas the said Resolution has been presented to W. S. Caldwell, Auditor of said City; now

therefore in pursuance of and under the authority conferred by said Ordinance, The Oregon Central Railroad Company of Portland, Orgeon, hereby agrees, promises and undertakes in consideration of the Agreement of the City of Portland hereinafter contained, to commence to grade the Road Specified in said ordinance; and prepare the ground ready to lay the rails on or before the first day of May 1868, and to so complete the first five consecutive miles of said road on or before the 31st day of December 1868, and to so complete the first twenty consecutive miles of said road on or before the first day of July 1869—and the Oregon Central Railroad Company of Portland, Oregon, hereby further agrees, promises and undertakes at any and all times for the period of twenty years from the first day of January 1869, to transport and convey over their railroad all public messengers required to travel at the expense of said City, free of charge, and also transport and convey over their said railroad to or from any point on their line as may be required, free of charge or other compensation, than is provided in said Ordinance, all stone, gravel, earth, lumber and timber, or other materials which the City of Portland may require to be transported over the said Company's railroad; and the said Oregon Central Railroad Company of Portland, Oregon further agrees faithfully, diligently and efficiently to perform all the conditions and considerations specified in said Ordinance to be performed by said Railroad Company, and in case the said Railroad Company should fail to complete the sections as specified in said Ordinance or shall fail, neglect or re-

fuse to perform any of the terms, conditions and considerations as provided in said Ordinance then this contract shall become and be null and void and all the rights, benefits and privileges accruing to the said Company under this contract shall be totally forfeited, and the said Company shall be liable to the City of Portland, for the amount which shall have been paid by said City under said Ordinance and all damages which said City may sustain.

In consideration of the due and faithful performance of the terms, conditions and agreements on the part of the said Oregon Central Railroad Company herein set forth and as provided in said Ordinance, The City of Portland hereby agrees to pay the interest upon two hundred and fifty bonds of said Company of the sum of One Thousand Dollars each, at the rate of seven per cent per annum for the term of twenty years from the first day of July 1868 in United States Gold Coin in the manner and according to the terms and provisions of the said Ordinance, and the City of Portland further agrees faithfully to do and perform upon her part all other duties in said Ordinance declared.

In witness whereof the said Oregon Central Railroad Company of Portland, Oregon, by its President and Secretary aforesaid has hereunto set its hand and corporate seal and the City of Portland by its Auditor aforesaid has hereto set its hand and seal, at the City of Portland, Oregon, the day and year first above written.

J. GASTON,
President Oregon Central Railroad Co.

W. C. WHITSON,

Secretary Oregon Central Railroad Co. of Portland,
Ogn.

(Seal of the Oregon Central Railroad Company)

W. S. CALDWELL,

Auditor and Clerk of the City of Portland.

(Seal of the City of Portland)

Signed and Executed in Presence of

D. FREIDENRICH,

A. B. HALLOCK.

(U. S. R. Stamps, Thirty Cents, duly canceled)

ORDINANCE NO. 468.

An Ordinance to secure materials for Public Buildings and the construction and repair of streets adjacent to the Public Grounds, and for other purposes and to levy a special tax therefor.

The City of Portland does ordain as follows:

Section 1. That for the purpose of securing gravel stone, brick, clay, lumber and timber for the construction and repair of the City Buildings of the City of Portland and of the streets adjacent to the Public grounds, and for other purposes as hereinafter provided, the Corporation known as the "Oregon Central Railroad Company of Portland, Oregon" be and is hereby authorized to issue Two Hundred and Fifty bonds of the sum of One Thousand Dollars each, bearing interest at the rate of seven per cent per annum, commencing on the first

day of July 1868 and payable on the first day of January and July thereafter semi-annually, for the term of twenty years; said bonds having thereto attached forty interest coupons, to each bond, each coupon representing the half yearly interest of its respective bond, said coupons to be signed by the Secretary of said Company, and countersigned by the Mayor and Auditor of the City of Portland as hereinafter provided, and to be made payable in United States Gold Coin at the City of Portland at the City Treasury of said City, at Portland, Oregon.

Section 2. That in order to carry out the provisions of the first paragraph of Section one of this Ordinance, there shall be levied and collected in the year 1868, in the same manner as the other city revenue is or may be collected, a tax of two and one-half mills on the dollar, of all the taxable property in said city, in addition to the other taxes; the same to be paid in the Gold or Silver Coin of the United States, and the moneys to be derived from such tax shall be and is hereby appropriated and set aside to constitute a separate fund, to be known as the "Railroad Fund" out of which "Fund" the said interest coupons, payable January first 1869 on said two hundred and fifty bonds, hereinbefore described, shall be paid as they may fall due, and be presented for payment at the said City Treasury, and if there shall not be in the Treasury in this said "Fund" sufficient money to pay the said coupons payable January 1st 1869, or if there shall be a surplus after paying said coupons, payable on that date, the City Council shall make such ar-

rangements, in this respect, as is provided in section three of this Ordinance.

Section 3. That in order to further carry out the provisions of the first paragraph of section one of this ordinance there shall be levied and collected in the year 1869, and annually thereafter, for the period of eighteen years, in the same manner as the other city revenue is or may be collected, a tax of four mills on the dollar, of all the taxable property of said City, in addition to the other taxes; *provided*, however, that the City Council may at any time reduce the rate of tax in proportion to the increase of the taxable property within this City, so that the revenue so collected by said tax shall not be less than the sum of Seventeen Thousand, Five Hundred Dollars per annum the said tax; the said tax to be paid in the gold and silver coin of the United States, and the moneys to be derived from such tax shall be and is hereby appropriated and set aside to constitute a separate fund to be known as the "Railroad Fund," out of which fund the said coupons for interest on said Two Hundred and Fifty bonds hereinbefore described shall be paid as they may fall due and be presented for payment at the said City Treasury from time to time for the period of nineteen years, and on payment thereof by the City Treasurer, said interest coupons shall be canceled and returned to the City Auditor; and if at any time there shall not be a sufficient sum of money in said "Railroad Fund" to pay said interest when due, then an amount sufficient to make up such deficiency shall be taken from the "General Fund" for that purpose, or the City Council

shall make such other contracts and arrangements as may be necessary to make up such deficiency; and whenever on the first day of January of any year there shall remain a surplus in said "Railroad Fund," after the payment of the interest on said bonds, payable on that date, such surplus shall be paid into the "General Fund"; provided, always, (and said bonds and coupons shall so express) that the City of Portland shall never be liable to pay the principal of said bonds.

Section 4. That in order to insure the performance of the conditions and considerations, on the part of the said Railroad Company, hereinafter expressed, and in order to avail themselves of the provisions of this ordinance, the said Railroad Company shall commence to grade the said Road and prepare the ground ready to lay the rail on or before the first day of May 1868, and the first five miles of said road shall be so completed, ready to lay the rail on or before the 31st day of December 1868, and the said Company shall further complete the first twenty miles of said road by grading and preparing the ground ready to lay the rail, on or before the first day of July 1869, and the agreement of the City of Portland to pay the interest on the Two Hundred and Fifty bonds of said Company, as herein provided, is made upon the express condition that said Company shall begin said work and complete the first five and first twenty miles, by the time as herein provided, and if the said Company shall fail to comply with the provisions of this ordinance in any respect whatsoever, then this ordinance as to said Company, shall become totally inoperative and be null

and void, and the said Company shall be liable to repay to the City of Portland the amount which shall have been paid by the City of Portland under this ordinance and be liable for all damages which the city may have sustained by such failure.

Section 5. That upon the completion of the first five miles of said road on or before the 31st day of December 1868, as provided in section four the Mayor and Auditor of said City shall countersign the coupons attached to one hundred of said bonds and deliver said one hundred bonds with coupons attached to William S. Ladd of Portland, Oregon, whose duty it shall be to take charge of the same, for the use and benefit of said Company and sell the same, at a price however of not less than Eighty-five cents on the dollar, but with the privilege of hypothecating the said bonds or any portion thereof, on the best terms said Company can secure, to raise money; and out of the money arising from such sale or hypothecation, the said Ladd shall purchase such railroad iron, rolling stock, and equipment and other material necessary and requisite for the construction and equipment of said Company's railroad as the said Company may designate and have the said iron, rolling stock and equipment, brought to the City of Portland, Oregon, and delivered to said Company as the ground is prepared to lay the rail; and upon the completion of five additional miles of said road ready for the iron rail, the Mayor and Auditor of said City, shall countersign the coupons attached to seventy-five of said two hundred and fifty bonds and deliver the same together with the

coupons attached to said Ladd, who shall be authorized to dispose of them in the same manner as he is authorized to dispose of said One hundred bonds, and apply the proceeds in like manner, under the direction of said Company, and upon the completion of ten additional miles of said road, by the time and in the manner provided in section four, the Mayor and Auditor of said City shall countersign the coupons attached to seventy-five, the remaining bonds of said two hundred and fifty, and deliver the same, together with the coupons attached, to said William S. Ladd to be disposed of for the use and benefit of, and under the direction of said Company. And upon the completion of said twenty miles of railroad, said William S. Ladd shall surrender any and all of said bonds remaining unsold to said Company. Said railroad to commence at the City of Portland and run into the Willamette Valley, not further north than the Cornell Pass.

Section 6. In addition to the standing committees of this Council, the Mayor shall appoint a Committee to be known as the "Committee on Railroads," composed of three members of the Council, whose duty it shall be to examine the road of said Company, and report from time to time the progress being made thereon, and upon the completion of the first five miles of said road ready for the rail, it shall be the duty of said Committee in conjunction with the City Surveyor, on the application of said Company to examine the said five miles of road and upon their certificate subscribed and sworn to that said five miles of road is graded and ready for the

rail, it shall be the duty of the Mayor and Auditor to sign the coupons attached to the first one hundred of said bonds, and deliver the same to the said Ladd; and upon the completion of the grading of an additional five miles of said road, and the examination thereof, and certificate of said committee and surveyor as aforesaid; it shall be the duty of the Mayor and Auditor to countersign the coupons attached to seventy-five of said bonds, and deliver the same to said Ladd, and upon the completion of ten additional miles of said road ready for the rail and the examination thereof and certificate of said committee and surveyor, as hereinbefore provided, it shall be the duty of the Mayor and Auditor to countersign the coupons attached to the remaining seventy-five of said bonds, and deliver the same to said Ladd; provided, however, that the Mayor and Auditor of said City shall not countersign any of said coupons unless said company shall begin work on said road and complete the grading thereof by the time and in the manner provided in Section Four.

Section 7. That the provisions of the preceding sections of this Ordinance, and the agreement of this city to pay the interest referred to said sections is made upon the express condition and consideration that said Oregon Central Railroad Company "does contract and agree, by the filing of its agreement hereinafter referred to, at any and all times for the period of twenty years from the first day of January, 1869, to transport and convey over their railroad all public messengers required to travel at the expense of said city free of charge, and also

transport, carry and convey over their said railroad to or from any point on their line as may be required, free of charge, or other compensation for transportation than is provided in this Ordinance, all stone, gravel, earth, lumber and timber or other materials which the City of Portland may require to be transported over the said Company's Railroad for the construction or repair of streets adjacent to public grounds, public buildings of said City, and any and all purposes for which the City of Portland may now or at any time hereafter lawfully provide.

Section 8. That in order to avail themselves of the provisions of this Ordinance, said Railroad Company, at a meeting of its Directors, shall accept the propositions contained in this Ordinance, and by a resolution spread upon their journal, direct their President and Secretary to enter into an agreement in writing, embodying therein the provisions of this Ordinance, and file the said agreement with the Auditor, signed by the President and Secretary of said Company, and sealed with their Corporate seal, binding said Company to faithfully perform the conditions and considerations on the part of said Company specified in this Ordinance, and the Auditor of this City is hereby authorized upon the presentation to him of a duly certified copy of the said Company's resolution of acceptance of the proposition in this Ordinance contained, to enter into and sign the said agreement to and with the said Railroad Company on behalf of this City, and attach thereto the seal of this City, which signing and sealing shall bind the City of

Portland faithfully to pay the said interest coupons as they may fall due, and the faithful performance of all other duties in this Ordinance declared.

Section 9. In case said Oregon Central Railroad Company of Portland, Oregon, shall fail to commence the work upon said road, or shall fail to complete the sections by the time and in the manner specified in section four, or in case said Company should fail to perform any of the terms, conditions and considerations, as provided by this Ordinance, the contract made in pursuance of this Ordinance with said Company shall become null and void, and the Council shall declare the same, and all the rights accruing to said Company thereunder forfeited by said Company.

Section 10. After the forfeiture by said Company as above provided, any other duly organized Railroad Company within this State may avail itself of the provisions of this Ordinance by laying out, grading and preparing the ground ready to lay the rail from the City of Portland to Eugene City, and completing the first twenty miles of said road on or before the first day of July, 1869. Provided that such Company shall file its assent to the terms, conditions and considerations expressed in this Ordinance, in writing, with the Auditor on or before the first day of February, 1869. *Provided*, that this section of this Ordinance, shall not be included in the acceptance of contract with the above mentioned Oregon Central Railroad Company.

Passed the Common Council February 5, 1868.

W. S. CALDWELL,
Auditor and Clerk.

Approved February 6, 1868.

J. A. CHAPMAN, Mayor.

State of Oregon, City of Portland, ss.

I, W. S. Caldwell, Auditor and Clerk of the City of Portland aforesaid do hereby certify that the foregoing is a full, true and complete copy of Ordinance No. "468" of the City of Portland, that I have carefully compared the same with the Original and found the same correct, and that said Original is now in my office and in my custody.

Witness my hand and the seal of said City hereto affixed, this 14th day of February A. D. 1868.

(Seal of the City of Portland)

W. S. CALDWELL,
Auditor and Clerk.

(U. S. R. S. 5 cts.)

A

Proceedings read and approved.

J. GASTON,
Pres. of Board.

Portland, Oregon, March 11th, 1868.

In pursuance of the call of the President of the Board, the Board of Directors met at the office of the Company in Portland, and was duly called to order for the transaction of business. Present J. Gaston in the chair, and Director T. R. Cornelius. The President of

the Board laid before the Board the contract proposed to be entered into with the County Court of Washington County. On motion of Director T. R. Cornelius, J. C. Ainsworth was elected Secretary *pro tem* of this meeting.

On motion of Director J. C. Ainsworth, the following Resolution was unanimously adopted:

“Resolved that the Oregon Central Railroad Company of Portland, Oregon, does hereby adopt, ratify, confirm and accept all the terms and conditions and stipulations of the Contract to pay interest on Fifty Thousand Dollars of this Company’s bonds, proposed by the County Court of Washington County, Oregon, a copy of which is hereto attached, marked “B”; and that the President and Secretary be hereby directed to sign said contract on behalf of the Company, and attach the seal of the Company to the asme.”

“B”

This Article of Agreement made and entered into this fifth day of March, A. D. 1868, wherein Washington County, Oregon, is party of the first part, and the “Oregon Central Railroad Co. of Portland, Oregon” is party of the second part.

WITNESSETH: That whereas a majority of the legal voters of said County have petitioned the County Court thereof, to render such aid by the levying of an annual tax to pay interest at seven per cent per annum on Fifty thousand dollars for twenty years, as will aid

in the construction of a Railroad through the central portion of said County, for the use of the County and the people thereof; and whereas the County Court of said County at the March session thereof, for the year 1868, has made an *Order* to carry out the prayer of said petitioners, and for other purposes, a certified copy of said *Order* is hereto attached marked "A" and made a part of this agreement; and whereas the President and Executive Committee of said Company being present has assented to and agreed to all the provisions of said *Order*; and whereas the Board of Directors of said Company has and doth hereby ratify, approve and agree to all the provisions of said *Order*, by directing their President and Secretary to sign this Agreement, and attach thereto the Corporate seal of said Company; therefore be it known that Washington County, Oregon, by the order of its County Court, made at the said session thereof, doth hereby contract and agree to and with the said Railroad Company, and the holders of the said Bonds described in said *Order*, to hereafter faithfully collect and pay the taxes and the interest referred to in said *Order*, for the term of twenty years from the first day of October, 1868, and perform all and singular of all other obligations and stipulations of said County and its officers, according to all the terms and provisions of the said *Order* hereto attached, marked "A" and made a part of this Contract; and the said Railroad Company upon its part doth hereby contract and agree and bind its associates, successors and assigns to faithfully prosecute the work of constructing its Railroad

through said County, according to the terms of said *Order*, to enable them to perform the transportation of persons and property for said County and the people thereof, as provided for in said *Order* "A" and said Company hereby contracts, and agrees for themselves, associates, successors and assigns, to faithfully do and perform all and singular of the conditions, considerations and stipulations of said *Order* of the said County Court hereto attached. In witness whereof the County Court of said County has this Fifth day of March 1868, ratified and confirmed the same, by the signatures of the County Judge and County Clerk of said County; attested by the seal of said County, and by the signatures of the President and Secretary of said Company, and the Corporate seal thereof.

(Seal of Wash-
ington County)

Hyer Jackson, County Judge.

Attest Thos. D. Humphreys, County Clerk.

J. Gaston, Prest Oregon Central R R Co.

W. C. Whitson, Secy Oregon Central R R Co.

(Seal of the Oregon
Central R R Co.)

"A"

"RAILROAD ORDER"

Whereas a majority of the legal voters of Washington County, Oregon, have petitioned the County Court of said County, to take such action by the levying of an annual tax, as will secure the construction of a Railroad through the Central portion of said County, for the use

of said County and the citizens thereof, to the extent of a seven per cent annual interest upon Fifty thousand dollars for twenty years, said interest to be paid in U. S. gold coin and after due consideration of the prayer of said petitioners: Therefore, be and it is hereby *Ordered* by the County Court of said County, in and at its session for the month of March, 1868, and upon the fourth day of said month, as follows:

Section 1st. That for the purpose of securing gravel, stone, brick, clay, lumber and timber, for the construction and repair of the County buildings of Washington County, and the transportation of persons and property, as provided in Section Six of this *Order*, and for the other purposes as hereinafter provided, the Corporation known as the "Oregon Central Railroad Company of Portland, Oregon," be and is hereby authorized to issue Fifty Bonds of the sum of one thousand dollars each, bearing interest at the rate of seven per cent per annum, commencing on the first day of October, 1868, and payable on the first days of April and October thereafter semi-annually for the term of twenty years; said Bonds having thereto attached forty interest coupons to each Bond, each coupon representing the half yearly interest of its respective Bond; said coupons to be signed by the Secretary of said Company and countersigned by the County Judge and County Clerk of said County as hereinafter provided, and to be made payable in U. S. gold coin at the County Treasury of said County.

Section 2. That in order to carry out the provisions

of the first paragraph of section one of this *Order*, there shall be levied and collected in the year 1868, in the same manner as the other County Revenue is or may be collected, a tax of three and one half mills on the dollar, of all the taxable property of said County in addition to the other taxes, the same to be paid in the gold or silver coin of the United States, and the moneys to be derived from such tax, shall be and is hereby appropriated and set aside to constitute a separate "Fund" to be known as the "Railroad Fund," out of which "Fund" the said interest coupons payable April 1st 1869 and October 1st, 1869, on said Fifty Bonds hereinafter described, shall be paid as they may fall due and be presented for payment at said County Treasury, and if there shall not be in the said "Fund" sufficient money to pay the said coupons payable April 1st 1869 and October 1st 1869, or if there shall be a surplus after paying said coupons payable on that date, the County Court shall make such arrangements in this respect as is provided in Section three of this *Order*.

Section 3. That in order to further carry out the provisions of the first paragraph of section one of this *Order*, there shall be and is hereby levied to be collected in the year 1869 and annually thereafter for the period of eighteen years, in the same manner as the other County revenue is or may be collected, a tax of three mills on the dollar, of all the taxable property of said County, in addition to the other taxes; provided however that the County Court may at any time reduce the rate of this tax in proportion to the increase of taxable property

within said County, so that the revenue so collected by said tax shall not be less than three thousand five hundred dollars per annum; the said tax to be paid in the gold and silver coin of the United States, and the moneys to be derived from such tax shall be and is hereby appropriated and set aside to constitute a separate "Fund" to be known as the "Railroad Fund," out of which "Fund" the said coupons for interest on said Fifty bonds hereinbefore described shall be paid as they may fall due and be presented for payment at said County Treasury from time to time for the period of nineteen years, and on payment thereof by the County Treasury said interest coupons shall be canceled and destroyed; and if at any time there shall not be a sufficient sum of money in said "Railroad Fund" to pay said interest when due, then an amount sufficient to make up such deficiency shall be taken from the "General County Fund" for that purpose, or the County Court shall make such other contracts and arrangements as may be necessary to make up such deficiency; and whenever on the first day of October of any year, there shall remain a surplus in said "Railroad Fund," after the payment of the interest on said Bonds payable on that date, such surplus shall be paid into the "General County Fund"; provided always, and said Coupons shall so express, that said County shall never be liable to pay the principal of said Bonds.

Section 4. That in order to ensure the performance of the conditions and considerations on the part of said Company, hereinafter expressed, and in order to avail themselves of the provisions of this *Order*, the said Rail-

road Co. shall survey and locate the line of their Railroad through said County and commence the work of constructing said Railroad upon said line within said County, on or before the 15th day of June 1868, and complete the work of constructing said Railroad sufficient to run cars thereon from Portland to a point opposite the town of Hillsboro on or before the first day of September, 1869; and if the said Company shall fail to survey and locate its line of Railroad or fail to commence work thereon, or fail to complete the road to Hillsboro on or before the 1st day of September, 1869, as herein provided, then this *Order* as to said Company shall become totally void, and they shall forfeit all rights thereto, and be liable to repay to said County all sums of interest paid on said Coupons prior to the date of such forfeiture.

Section 5. That in order further to carry out the provisions of the first paragraph of this Order, it shall be the duty of the County Judge and County Clerk of said County whenever, after the execution of the Contract hereinafter provided for, said Company shall present to them, the said County Judge and Clerk, the said "Fifty Bonds" described in Section One of this *Order*, to countersign with their official signatures, each and all of the said interest coupons attached to said "Fifty Bonds," which signing shall bind the County to pay the same according to their tenor as aforesaid; and after said coupons shall have been so signed, by said County Judge and Clerk, they shall deliver the whole of said Bonds, together with the said coupons attached, to Wil-

liam E. Smith, of Washington County, Oregon, who shall act as Trustee between said County and said Company, for the purposes hereinafter named, and shall give such security for the faithful discharge of this trust as may be hereafter required by said County Court; and it shall be the duty of said Trustee to receive and safely keep said Bonds and coupons, and as often as required by said Company, he shall examine the work performed by said Company in the construction of their said Railroad making such investigation of their Books, Engineer's estimates, &c as may be necessary to properly inform him of the amount of work performed by said Company in said County from time to time; and whenever said Company shall have commenced work on twenty miles of their said railroad, and shall have expended five thousand dollars on the construction of said Railroad within said County, it shall be the duty of said Trustee to deliver five of said Bonds with their coupons attached, so as aforesaid executed and countersigned, to said Company, and so whenever from time to time, said Company shall have expended five thousand dollars additional to the work of constructing said Railroad, in said County, said Trustee shall deliver to said Company five additional of said Bonds with their coupons attached, until the entire fifty shall have been so delivered, and if any of said Bonds shall remain in the hands of said Trustee, at the completion of said Road to Hillsboro as aforesaid, such remainder shall be then surrendered by said Trustee to said Company, and the compensation of said Trustee for his services herein shall be a reasonable

compensation for such service, to be estimated by said County Court, and to be paid by said Railroad Company; and the route of said Railroad shall run from the City of Portland through the Central portion of said County to the northern end of "Wapato Lake" passing within three-fourths of one mile of the Court House of said County.

Section 6. That the provisions of the preceding section of this *Order*, and the agreement of this County to pay the interest referred to in said sections, is made upon the express condition and consideration, that said Oregon Central Railroad Company does contract and agree, by the filing of its agreement hereinafter referred, at and all times for the period of twenty years from the 1st day of September 1869, to transport and convey over their railroad all public messengers required to travel at the expense of said County, and all County officers required to travel at the expense of said County, free of charge, and also transport, carry and convey over their Railroad, to or from any point on their line as may be required, free of charge or other compensation for transportation than is provided in this *Order*, all stone, gravel, earth, lumber, and timber, or other materials which said County may need to be transported over said Railroad for its county buildings, and all furniture and stationery required in the County offices for the use of the County, and all articles and animals with their necessary attendants on their way to the annual fairs of the Washington County Agricultural Society, and to the Fairs of the State Agricultural Society,

intended for exhibition for premiums at such Fairs; and such Company shall further contract to not charge a higher rate for freight or passage of the products and citizens of said County from points in said County to or from the City of Portland than they charge for like freight or passage upon similar and equal distances upon any other portion of the line of their said Railroad.

Section 7. That in order to avail themselves of the provisions of this *Order*, said Railroad Company, at a meeting of its Directors shall accept the propositions contained in this Order, and by a resolution spread upon their journal, direct their President and Secretary to enter into and sign an agreement in writing, attaching thereto the provisions and certified copy of this *Order*, and file a copy of the said Agreement, duly executed in Duplicate, with the Clerk of said County, which agreement and duplicate shall be signed by the President and Secretary of said Company, and sealed with their Corporate seal, binding said Company to faithfully perform all the conditions and considerations on the part of said Company specified in this *Order*; and the County Judge of said County is hereby authorized, on behalf of said County, to sign the said Agreement and Duplicate, which signing by said Judge shall be attested by the signature of the Clerk of said County, and the County seal thereof, which signing, sealing and attestation, by said County Judge and County Clerk, shall bind the County of Washington, faithfully to levy and collect the said tax, and pay the said interest coupons as they may fall due for the period of twenty years, as is herein provided."

On motion of Director Ainsworth, it was unanimously resolved that the Resolution adopted by the Board of Directors at the meeting of the same held Feb. 13th, 1868, fixing the route of the Company's Railroad through Washington County via Cornell Pass, be and the same is hereby rescinded.

On motion the Board adjourned.

J. C. AINSWORTH,
Sect P. T.

J. GASTON,
President.

Portland Oregon Apl 18, 1868

Board of Directors met this day in pursuance of the call of the President. Present, Directors Cornelius, Ainsworth, Newby and Gaston. Gaston in the chair. On motion of Cornelius, Director Newby was appointed Secretary *pro tem*. On motion of Director Ainsworth it was resolved, that the President of the Board be authorized and directed to enter into and execute a contract with Stephen Coffin, binding this Company to purchase all the shares of stock (if the same be a controlling interest) which the said Coffin owns in the Oregon Iron Works Company of Portland, Oregon, at par, the said Coffin to take lands of the Company therefor, at prices to be fixed by arbitrators, and said Coffin to canvass for lands to be donated and subscribed to said Railroad Company, and if said Coffin does not secure lands sufficient to pay for said stock, said R. R. Company to have option to furnish balance of lands, or to pay said Coffin for his services in canvassing; and such other details as are necessary to perfect the contract. On motion of Director

Newby the Board adjourned.

W. T. NEWBY,

Sec Pro Tem.

J. GASTON

Prest.

Portland Oregon Apl 24, 1868

Board of Directors met pursuant to call of the President, present Directors Cornelius, Ainsworth and Gaston. Gaston in the chair.

On motion of Cornelius Director Ainsworth was appointed Secy pro tem.

On motion of Director Ainsworth the President and Secretary of the Company were directed to issue a circular to the Bankers and Railroad men of the Eastern cities; setting forth the dates and facts of the two companies claiming one corporate name; the grants and aid which has been given to our Company; and the efforts of our Company to have the matters in dispute speedily settled.

On motion the Board adjourned.

J. C. AINSWORTH,

Sect. P. T.

J. GASTON,

Prest.

Office O. C. R. R. Co. 10 A.M.

Portland, 15 May 1868.

The Board of Directors met this day in pursuance to a call of the President.

Present—Directors Ainsworth, Cornelius, Gaston & Newby. President Gaston in the chair.

Minutes of meetings April 18th and 24th were read

and approved.

Resignation of W. C. Whitson Secretary was read and accepted.

On motion of Director Ainsworth, seconded by Newby, E. W. Haines was elected Secretary to serve out the present unexpired term.

On motion of Cornelius, the President & Secretary are directed to reply to communication from the East Side Company, of date "Salem April 30, 1868"—and propose the appointment of a Committee of three from their Company to confer with a like Number Committee from this Company, with a view to the settlement of difference. On motion the President was instructed to prepare the necessary papers for a subscription by Yam Hill County of Seventy five thousand dollars.

On motion adjourned.

E. W. HAINES,

J. GASTON,

Sec'y O. C. R. R. Co.

Prest. O. C. R. R. Co.

Office O. C. R. R. Co.

Portland 15 May 1868 7 P. M.

The Board of Directors met this P. M., at 7 o'clock in pursuance to a call of the President.

Directors present Ainsworth, Gaston & Newby. President Gaston in the chair.

On motion of Director Ainsworth the Secretary is directed to give notice by publication three consecutive days, by publication in Daily Evening Bulletin, of the

Annual Meeting of the Stockholders & the election of five Directors, on the 25th inst at 10 o'clock A. M., to serve for the ensuing year.

On motion the President was authorized to negotiate with Gen'l Coffin for Blocks No. City of Portland & to secure a deed therefor & take possession of the same in the name of the Company for the purposes of a Depot.

On motion the Board adjourned.

E. W. HAINES,

Secretary.

J. GASTON,

Prest.

Office of the O. C. R. R. Co.,

Portland 25 May 1868

Stockholders Annual Meeting.

In pursuance of the By-laws, and notice in the Daily Evening Bulletin (a copy of which notice appears in the margin)

“NOTICE. The Annual Meeting of the Stockholders of the Oregon Central Railroad Company will be held at the office of the Company, in Portland, on the 25th inst. May, 1868. 3t

E. W. Haines, Sect'y.”

the Stockholders of the Oregon Central Railroad Company met at the office of the Company in Portland this day, the President of the Company, J. Gaston, in the Chair, and proceeded to an election of a Board of Direc-

tors for the next ensuing year. The Secretary was appointed teller, and the roll of Stockholders called, and the votes cast by ballot, and upon counting the same were found to be as follows: whole number of votes cast Twenty five thousand and Six (25006), of which number James W. Nesmith, Wm. T. Newby, J. C. Ainsworth, Thomas R. Cornelius, & J. Gaston each received Twenty five thousand and Six, whereupon the President declared James W. Nesmith, Wm. T. Newby, J. C. Ainsworth, Thos. R. Cornelius and J. Gaston duly elected to serve as Directors of the Oregon Central Railroad Company for the next ensuing year; and filed with the Secretary of certificate of which the following is a true copy.

“Portland Oregon May 25, 1868.

I, J. Gaston, President of the Oregon Central Railroad Company, do hereby certify that at the annual meeting of the Stockholders of said Company, for the purpose of electing a Board of Directors, this day held at the Company's Office in the City of Portland, the following persons, to wit, James W. Nesmith, Wm. T. Newby, J. C. Ainsworth, Thomas R. Cornelius and J. Gaston, having received a majority of all the votes cast by such Stockholders, at such election, for Directors, they are hereby declared to be duly elected as Directors of the Oregon Central Railroad Company for the next ensuing year.

J. GASTON

Prest. O C R R Co” over

The President then presented his Annual Report, whereupon the meeting adjourned.

E. W. HAINES,
Secretary

J. GASTON,
Prest.

FIRST ANNUAL REPORT OF THE OREGON CENTRAL RAILROAD COMPANY.

To the Stockholders of the Oregon Central Railroad Company: The By-Laws of your Corporation require that I shall make a report of the operations of the Company for the past year. My report must necessarily be meagre, inasmuch as the company has but recently got to the work intended by its incorporation—the construction of a railroad. But a brief review of the preliminary work of a corporation of the character of which this is intended to be, cannot be devoid of interest now, and will certainly form an interesting chapter in its history after success shall have crowned your efforts to build a great railroad intended not only as a blessing to the State, but as a highway for the nation.

Your first Board of Directors were elected on the 24th of May, 1867. None of them had any adequate idea of the difficulties to overcome in an undertaking of this character, even under favorable circumstances; but when we consider that the enterprise was launched in a new State whose people were unfamiliar with the great benefits railroads confer, where the capital available for anything out of the ordinary business transactions of the country was very limited and reluctant of

investment in a new enterprise, where a 'railroad spirit' had to be created by your Directors, before anybody could be induced to favor your enterprise, and last of all where bitter opposition was met at the very threshold in the shape of a rival corporation, boldly claiming your Corporate name and franchises—when we consider all this, the prospect one year ago was gloomy enough, and it is not surprising that two of your Board resigned their positions in despair of accomplishing any permanent good. Under these circumstances it was not to be wondered at that the mass of the people, who are now active friends and supporters of your Company, had then but little confidence in the prospect of success. But labor conquers all things, and three members of your Board determined to give the enterprise their determined and persevering labors for one year. Under the circumstances, it was not known whether the Company would be recognized by the Secretary of the Interior at Washington City, as entitled to the land granted to aid in the construction of the road, or whether a contest would arise in his office, between the rival companies. After executing and forwarding the papers to the Secretary as required by law, it was deemed prudent to await his action. No reply was received from him until about the 1st day of September, when I received letters from the Secretary fully recognizing our rights to the land grant; and I may here add that within the last week I have received other communications from the Secretary, already given to the public through the press, conclusively showing that

no other company than yours has set up any claim in a legal way, or has any right whatever to the land granted by Congress.

From May to September, nothing was done to forward the enterprise further than to hold some public meetings, get the people to talk the matter among themselves, and arouse an interest in the construction of railroads generally.

After receiving the foregoing recognition of the company's rights, a canvass for subscriptions to the capital stock of the Company, and donations of land and other property in aid of the enterprise, was commenced in Washington and Yamhill Counties, which was subsequently extended to the city of Portland.

In February last, the City Council of the city of Portland resolved to extend aid to the company to the extent of interest on its bonds in the sum of \$250,000. About this time Col. Cornelius of Washington County, and Capt. J. C. Ainsworth, of Portland, were invited to fill the two vacant places in the Board of Directors, which they accepted, and have since labored energetically to promote the interests of the company. The prospects of the Company now rapidly improved, and the overhanging clouds of distrust gave away to generous confidence with material support from all quarters where we had a right to expect it. In March the authorities of Washington county entered into a contract to pay the interest on fifty thousand dollars of the Company's bonds. About the same time a subscription

paper was started in Portland, which has been filled up with twenty-five thousand dollars cash, all the leading capitalists and business men aiding it more or less. Recently the necessary steps have been taken to secure the aid of Yamhill county in the way of interest upon seventy-five thousand dollars of the Company's bonds, with every reason to hope for success. Canvassing for subscriptions of land and cash is still being prosecuted in Multnomah, Washington and Yamhill counties with encouraging success, and the plan hitherto pursued will be prosecuted in every county along the line. In this connection I take pleasure in stating that the Company has recently secured the services of Gen. Coffin in this business, who has volunteered to leave his own business for a season to push the interests of your Company with all the energy which characterizes him.

Negotiations have been commenced to secure a portion of the iron and rolling stock for the first twenty miles in San Francisco. The company has secured fifteen acres of land with ample wharf privileges at the upper end of the city of Portland, for the purposes of a depot, besides several adjoining blocks, making their lands in the city of great value.

The assets of the Company at present are as follows:

Portland aid Bonds.....	\$250,000
Washington County Bonds.....	50,000
Estimated value of land subscribed and donated in Washington, Yamhill and Multnomah	250,000

Cash subscriptions in ditto.....	37,000
Total	<u>\$587,000</u>

After the completion of the first twenty miles of road, the land grant of twenty sections of public land per mile, and the State aid of ten thousand dollars in State Aid Bonds per mile, on the first one hundred miles, will be available in the further prosecution of the work.

The estimated cost of the first twenty miles of road fully equipped with stations and buildings finished, is, in round numbers, \$400,000. It is not possible to build this first section by converting simply the assets of the Company named above, for they could not be converted at anything like their value if put up at a forced sale; but it will be necessary to issue some First Mortgage Bonds thereon, which the Company is preparing to do at the proper time. It is satisfactory to be able to state that these assets have been submitted to the judgment of the ablest railroad capitalists and contractors on the coast, who are unanimous in the opinion that your Company has already secured the means to construct and equip the first twenty miles of road. It must be borne in mind that this first twenty miles will cost nearly double as much as any other section between Portland and Eugene City.

As soon as the road is completed to Hillsboro, which we hope may be accomplished by December next, it will commence earning something for the Company. No tangible means are at hand for making a correct esti-

mate of the earnings of this portion of the road. With the opening of the road will commence the erection of new towns along the line, the manufacture of lumber and other articles demanded in the growth of this city and the development of the country; and with this prospect it is not unreasonable to expect that the first twenty miles of the road would earn, at the lowest estimate, five thousand dollars (\$5,000.00) per month. It could have no steamboat or other competition. Statistics are being collected by the engineers in charge, upon which to base an estimate of the earnings of the line from Portland to Eugene City, but this matter is reserved to another time.

The Board of Directors have had to resort to litigation to settle questions in dispute, with the rival corporation operating on the east side of the Willamette river, and it will necessarily require some time before these suits can be closed up, but in the meantime no one need be concerned about the result. Justice will be secured some time and the unnecessary trespass upon the Company's rights in the use of its corporate name will be prohibited beyond any doubt.

Since commencing the work of grading on the 15th of April, the work has been pushed as rapidly as circumstances would permit. At the present time there are fifty laborers engaged on the work of grading, besides the engineer corps. A larger force would have been employed, but could not be to advantage, the character of the work requiring a proportionate number of carts, and the carts could not be secured otherwise than

by ordering them built, which has required time. The progress made is very satisfactory, and stockholders and the public may rest assured that the work will be pushed with all the energy the means of the company will permit.

The necessary inquiries have been made through the proper channels, to ascertain upon what terms foreign capital can be secured. The people ought not to be deceived and misled. Foreign capitalists will not come here and build your railroads upon your mere request. They are quite as careful of their money as are Oregonians of theirs. While you would not likely invest your money in the bonds of a road proposed to be constructed, but which is not in fact graded, through Texas or New York, it is not likely that New Yorkers will invest in Oregon roads until they see something more than maps. No mere paper schemes, practicing upon the credulity of the people, will succeed. It requires dollars, but a dollars worth of wheat or land can be converted into the construction of a railroad as well as coin. And when enough of the commercial values of the country, be it cash, produce, land or labor, has been aggregated, to enable Eastern capitalists to see that we are in earnest, and have our affairs in a tangible business shape, there will be no trouble in securing money on the Bonds of the Company to further prosecute the enterprise.

Your Directors have let no contracts at exorbitant prices, squandering your contributions upon favorites, upon those who have no interest in the State, or to

enrich themselves, and do not purpose to do so. Economy has been required of your Chief Engineer, Superintendent, and all others having the incurring of expenses, and all employes exhorted to a faithful discharge of their duties. It is believed that this is the only way to secure success; and it is some satisfaction to know that this plan has the approval of those of whom we expect to ask further aid. Oregon has not yet done all that it may easily do to aid this great work, and especially those along the line who are to be most benefited by the road. Every man can help some. Let every man do so, and failure would be utterly impossible.

Laborers must be fed, and the farmers along the line can contribute flour, bacon, vegetables and all the necessaries of life, when they would have no cash to spare, and this they would not feel. Teams must be supplied and supported; horses and their provender are everywhere abundant; let them be freely supplied, and the work will not lag. The right of way ought to be cheerfully donated in every case. Cross ties can be easily furnished by persons along the line, each furnishing a few, and taking their pay in stock or lands. In this way let a "railroad spirit" be aroused and stirred up to a deeper depth, and the Railroad which is eminently the people's and an Oregon enterprise, will be pushed rapidly up the Willamette, through the Calapooias to Umpqua, and on to Rogue river, and spreading its iron arms out upon either side, will infuse new life into the whole country, make your wheat of uniform current value from Jacksonville to Portland, take

out every brush, reconstruct every farm, quadruple its value, erect comfortable houses everywhere, give the farmer the full value of his labor and his produce at his own door, create new towns and cities, and finally supply and serve the wants of a million of people, prosperous and happy in the enjoyment of one of the most favored spots and climes beneath the sun.

This beautiful picture cannot be accomplished without labor, nor can it ever be accomplished without a railroad. What the beautiful valleys of the Mohawk and the Genessee of New York, the Scioto and Miami of Ohio, were thirty years ago, the Willamette, Umpqua and Rogue river are today. What the first named valleys are to-day, your beautiful valleys of Oregon may soon be, if we keep up with the progress of the age and construct this railroad. Then, let not the "Railroad spirit"—already aroused—flag in the least, and the best way to keep it alive and increase its value, is to go to the nearest subscription paper and subscribe something. No man fully feels the importance of anything until he is a "little interested." Far more can be accomplished by a little united effort than any one supposes. There are more than one thousand farmers in the Willamette Valley who could easily raise five hundred bushels of wheat in addition to their regular crops, to be put into this railroad one year from next harvest. Suppose by a united effort this was secured, it would make a half millions bushels of wheat, worth to your railroad not less than a half million dollars, every dollar or bushel of which could be turned into railroad iron. The very

fact that such an arrangement as this had been made in this State would give your Company great credit in New York and Liverpool.

In conclusion your Board of Directors feel encouraged to state that they consider the affairs and prospects of your Company in a very satisfactory, not to say flattering condition. We have no doubt of the success of the enterprise.

And with this unreserved statement of the condition of the affairs of this, the original Oregon Central Railroad Company, we would respectfully submit to the people of the State this proposition: Is it probable that two companies of the same corporate names, upon opposite sides of the same river, being competing lines for all the trade of the upper Willamette valley and beyond, and rivals in every respect, can reasonably hope to succeed under the present circumstances, and at this point in the history of our State? If it is not reasonable to hope for the success of both, does not justice to the interests of the whole State, a prudent regard for the tax payer, as well as the dictates of business economy, urge every friend of the interests of both sides of the Willamette river, as well as those of the Umpqua and Rogue river valleys, to decide in favor of and give their support to that company which has been recognized by the Land Departments of the U. S. Government, and endorsed by your chief commercial city, which has secured a respectable basis of home means, which has certainly the best showing for success, and thus enable them to speedily build one main line through to Jacksonville,

with such necessary branches as will fully accommodate the entire State west of the Cascade Mountain? Should the interests of foreign contractors, or the personal matters of our citizens, be allowed to prejudice the superior interests of the State and the people? And is it not especially the interest of this city, to see that the company it has endorsed and aided, shall not be unnecessarily embarrassed by rival enterprises? We ask of the people of the State a fair examination and discussion of these propositions.

All of which is respectfully submitted.

J. GASTON

President O. C. R. R. Co.

Portland, Oregon, May 25th, 1868.

Office of the Oregon Central R. R. Co.,

Portland, Oregon, 1st June, 1868.

Board of Directors met pursuant to call of the President.

Present, Directors Ainsworth, Newby, and Gaston. President Gaston in the chair.

On motion of Director Newby it was:

RESOLVED. 1st. That the Oregon Central Railroad Co., of Portland, Oregon, does hereby authorize and direct the President and Secretary of said Company to prepare, execute, sign and seal two thousand Bonds of the denomination of One thousand dollars each, in one series, numbered from One to two thousand, inclusive, to be First Mortgage Bonds, and of the manner,

form, tenor, and legal effect of the copy herein set forth marked "A."

"A"

The Oregon Central Railroad Company a Corporation duly organized under the laws of the State of Oregon, and having their principal office in the City of Portland in said State, acknowledge themselves indebted for value received to the holder hereof in the sum of One Thousand Dollars which sum they promise to pay to the holder hereof in the City of New York on the first day of January A. D. Eighteen Hundred & Eighty nine (1889) with interest thereon at the rate of Seven per cent per annum, payable semi-annually on the first day of January & July in each year at the Banking House of Lees and Waller in the City of New York on presentation and delivery of the annexed interest warrants as they severally become due, both principal and interest payable in Gold Coin of the United States of America. And the said Company agree that this obligation, and all rights and benefits arising therefrom may be transferred by general or special endorsement, or by delivery as if the same were a note of hand payable to Bearer. This Bond is one of a series of Two thousand of One Thousand Dollars each, issued by authority of the Board of Directors of said Company to provide for the construction and equipment of the Oregon Central Railroad, and is secured by First Mortgage properly executed by said Company to Charles M. Carter and James B. Harker of the City of Portland, State of Oregon bearing date

the first day of June, 1868, and stamped according to law with United States Revenue Stamps by which Mortgage the said Company have conveyed to the said Charles M. Carter and James B. Harker in trust for the use and benefit of the holders of said Bonds, all property, real and personal, rights, interests and franchises, vested or contingent (excepting subscriptions to the Capital Stock of said Company) and the right and franchise of said Company to the benefits of an act of Congress entitled "An act granting land to aid in the construction of a Railroad & Telegraph line from the Central Pacific Railroad in California to Portland, Oregon." Approved July 25th 1866, as by said Mortgage or the record thereof in the Clerk's Office in the Counties of Multnomah, Washington, Yamhill, Polk, Benton & Lane, in said State of Oregon, reference being thereto had, more fully appears. Said Bonds are further secured by a sinking fund arising from fifty per cent of the net proceeds of sales of lands under said act of Congress and ten per cent of the net earnings of said Company's Railroad which sums are to be set aside and loaned on undoubted security for the exclusive purpose of redeeming said Bonds when due.

(To the above Bond forty one coupons are to be attached, each for six months interest & payable on the first day of January & July. The first one payable on 1st January 1859 & the forty first one on the 1st day of January 1889, all payable at the Banking House of Lees & Waller New York City)

RESOLVED. 2nd. That said two thousand

Bonds shall be secured by a First Mortgage on the Company's Railroad & other property; according to the copy herein set forth marked "B."

"B"

THIS INDENTURE Made this first day of June in the year of our Lord Eighteen hundred and sixty eight, between the Oregon Central Railroad Company, a Body Corporate, organized under an act of the Legislature of the State of Oregon, Approved October 14th, 1862, entitled, "An act Providing for Private Incorporations and the appropriation of private property therefor," and the amendments thereto, party of the first part, and James B. Harker and Charles M. Carter, parties of the second part: WITNESSETH: Whereas the said party of the first part is authorized and empowered in and by the several acts of the Legislature of the said State of Oregon, above referred to, to borrow from time to time on the credit of the Corporation, and under such regulations and restrictions as the Directors thereof by unanimous concurrence may impose, such sums of money as they may deem necessary for constructing and completing their Railroad, and to issue and dispose of Bonds or Promissory Notes therefor in denominations of any sum and at a rate of interest not exceeding (seven) per cent per annum, and also to issue Bonds or Promissory Notes of the denomination aforesaid and at the rate of interest aforesaid in payment of any debts or contracts for constructing and completing their Railroad with its equipments

and all else relative thereto, and to secure the payments of said bonds or notes, the said Company may Mortgage its Corporate property and franchises.

And said Directors are also to provide in such manner as to them shall seem best, a Sinking Fund to be especially applied to the redemption of such Bonds on or before their maturity, and may also confer on any holder of any note or Bond, so issued from money borrowed, or in payment of any debt or contract for the construction and equipment of such road as aforesaid,

The right to convert the principal due, or owing thereon, into stock of said Company at any time within Eight years from the date of such Bonds under such regulations as the Directors may adopt.

And, Whereas, for the purpose of providing the means for the construction of the said Railroad and its equipment and completion, the Board of Directors of said Oregon Central Railroad Company have unanimously **RESOLVED** in substance and legal effect, every member of said Board being present and voting that said Oregon Central Railroad Company make, execute & deliver, under its corporate seal, its Bonds, bearing even date herewith, severally payable to the holder thereof or bearer, at the Banking House of Lees & Waller in the City of New York on the first day of January in the year Eighteen hundred and Eighty nine, with interest from and after the first day of July in the year Eighteen hundred and Sixty-eight, at the rate of Seven per cent per annum payable at the same place

Semi-annually as follows, that is to say:

That two thousand Bonds be made or issued, for the sum of One thousand dollars each, in the aggregate amounting to Two Million dollars and no more. And that for the purpose of a more specific identification thereof, that said Two thousand Bonds be numbered in a consecutive series from Number One to Number two thousand, both inclusive, and that upon the back of or endorsed on each Bond shall be printed and engraved a certificate signed by the said James B. Harker & Charles M. Carter, to the effect that such Bond is one of the first Mortgage Bonds to be secured by these presents. AND WHEREAS under and pursuant to lawful authority conferred by said several acts of the Legislature of the said State of Oregon the said Board of Directors of said Oregon Central Railroad Company have further unanimously resolved in substance and legal effect, that the President & Secretary of said Oregon Central Railroad Company execute & acknowledge in the name of and on its behalf & under its Corporate Seal deliver to said James B. Harker & C. M. Carter a Mortgage conveying assigning & transferring to him & them all its corporate real & personal property, franchises & effects (excepting individual land subscriptions and donations to Capital Stock) as security for the payment of said two thousand Bonds & the interest to grow due thereon & that said Mortgage shall contain all the provisions covenants & conditions hereinafter set forth and that such Mortgage and the two thousand Bonds thereby secured be severally dated the

first day of June A. D. Eighteen hundred & Sixty Eight. NOW THEREFORE THIS INDENTURE WITNESSETH, that the said Oregon Central Railroad Company, the party of the first part hereto, under & pursuant to & by virtue of the express powers & authority conferred upon & vested in it by said several Acts of the Legislature of the State of Oregon & under & pursuant to said Resolutions duly passed & adopted by the aforesaid unanimous concurrence of its Board of Directors & which are duly entered upon the official minutes of said Board & for & in consideration of the foregoing premises & especially for the purpose of effectually securing to the respective holders the payment of the said two thousand Bonds with the interest due and to grow due thereon, AND for and in consideration of the sum of ONE DOLLAR & other monies lawful money of the United States of America to it in hand paid by said parties of the second part hereto, at & before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, HATH granted, bargained, sold, assigned, transferred, & set over, enfeoffed, conveyed & confirmed, and by these presents Doth grant and convey to the said James B. Harker & Charles M. Carter & the survivors of them their or his successors or assigns, ALL AND SINGULAR the Railroad of the said party of the first part hereunto now, constructed or hereafter to be constructed, from a point in the City of Portland, Oregon to a point at or near the town of Eugene City in Lane County said State, & also & all future extensions of

said Railroad, **TOGETHER** with all its lands, tenements & hereditaments acquired & appropriated or which shall hereafter be acquired or appropriated for the purpose of a right of way for a single or double track Railroad & all the appurtenances thereto belonging, and also all the rights, benefits, values, franchises, and lands granted to said Company by virtue of an Act of the Congress of the United States entitled "An Act granting lands to aid in the construction of a Railroad & Telegraph line from the Central Pacific Railroad in California to Portland, Oregon," approved July 25th, 1866, and by virtue of any amendments thereto & by virtue of any legislation which has been heretofore, or which may be hereafter had in the Legislature of the State of Oregon, necessary to entitle said Company to the benefits of said act of Congress. **AND ALSO** all its land acquired & appropriated or which hereafter shall be acquired & appropriated for Depots, Engine Houses, Machine Shops, Work Shops, Superstructures erections & fixtures; & also all & singular the franchises rights & privileges now owned possessed or acquired or which shall hereafter be owned possessed or acquired by said party of the first part **AND ALSO ALL** the rails, bridges ways piers depots Engine Houses car houses Station houses Ware houses Machine Shops Work Shops erections Superstructures fixtures privileges franchises & rights of said party of the first part, **AND** all the lands, tenements hereditaments & real Estate acquired & appropriated wheresoever and whatsoever, or now owned by said party of the first

part, or which shall hereafter be owned by it, & all & singular the locomotives passenger cars, freight cars and all other cars carriages Tools Machinery & Equipments for said Railroad & now owned or which shall be hereafter owned by the said party of the first part & also all goods & chattels rolling stock of every kind & description now owned or which shall be hereafter owned by the said party of the first part And in any way relating to or appertaining or belonging to or connected with said Railroad or the running & operating the same, together with all rents issues income profits money rights benefits & advantages derived or to be derived had or received therefrom by said party of the first part in any way whatsoever; Provided always that the individual land subscriptions and donations to the Capital Stock of the Company be hereby excepted from the operations of this Mortgage. **TO HAVE & TO HOLD** the said premises & every part thereof unto the said parties of the second part the survivors of them their & his successor or successors forever upon the following trusts, nevertheless; that is to say:

First. In case default shall be made in the payment of the interest in any of the said bonds according to the tenor thereof, or of the coupons or interest warrants thereto annexed, or in the payment of the principal of any of the said bonds when the same shall become due and shall be demanded, and if any such default shall continue for the period of three months, or in case of any default in any requirements hereof to be done or kept by the said Company, **AND** if any

such defaults shall continue for the period of three months, then and in either case the said parties of the second part the survivors of them their or his successor or successors in the trusts created or declared by this indenture, either personally or by their or his Attorney or Agent, may or upon due requisition, as hereinafter provided, shall enter into & upon All & Singular the premises hereby conveyed, or intended so to be, And each & every part thereof, & have hold & use the same, operating by his or their superintendents, managers or servants or other attorneys or agents the property of the said Company & conducting the business thereof & exercising the franchises pertaining thereto & making from time to time all repairs & replacements & such useful alterations additions & improvements thereto as may seem to him or them judicious, & collecting & receiving all tolls incomes rents issues & profits of the same & of every part thereof, & after deducting the expenses of operating the said Railroad property & appurtenances, & of conducting the business of the said Railroad Company, and of all the said repairs replacements alterations additions & improvements, and all payments which may be made for taxes assessments charges or liens, prior to the lien of these presents upon the said premises, or any part thereof, as well as just compensation for their or his own services and for the services of such attorneys or counsel as may have been by him or them employed, Shall apply the moneys arising as aforesaid to the payment of the interest on the bonds secured hereby, in the order in which such inter-

est shall have become due, rateably, to the persons holding the coupons evidencing the right to such interest, and after paying all interest which shall have become due, to apply the said money to the payment of the principal of the said bonds secured hereby rateably to the persons holding such bonds, and after the payment of the principal of all the bonds, secured hereby, if any surplus shall remain, to pay over the said surplus to the party of the first part, or dispose of the same as any court of competent jurisdiction may order.

Second: In case any default shall be made as hereinbefore expressed, and defined, and shall continue as hereinbefore specified, then and in any such case, the said parties of the second part, and the survivors of them their or his successor in the trust created or declared by this Indenture, may, or upon due requisition as hereinafter provided, shall, personally or by his attorney or agent, sell & dispose of all and singular the premises hereby conveyed, or intended so to be, at Public Auction in the City of Portland, Oregon, or at such other place as the said Trustees or the survivors of them their or his successor may designate, and at such time as they or he may appoint, having first given notice of the time & place of such sale by advertisement published not less than three times a week for six weeks in one or more newspapers, to be designated by the said Trustees, the survivors of them their or his successor or successors, or to adjourn the said sale from time to time in their or his discretion, & if so adjourning to make the same without further notice at the time & place

to which the same be so adjourned, & to receive the proceeds thereof, & to make & deliver to the purchaser or purchasers thereof, good and sufficient deed or deeds in the law for the same, which sale made as aforesaid, and whether subject to any lien or otherwise shall be a perpetual bar, both in law & Equity, against the parties of these presents and all other persons claiming or to claim the said premises or any part thereof by, to, through or under them, or any or either of them, & after deducting from the proceeds of such sale just allowances for all expenses thereof, including Attorneys & Counsel fees & all other expenses advances or liabilities which may have been made or incurred by the said Trustees or the survivor of them their or his successor or successors, in operating or maintaining the said Railroad, property, or in managing the business of the said Company while in their or his possession, & in arranging for & completing the sale of the said hereinbefore conveyed property, and all payments which may have been made by them or him for Taxes or assessments or other charges upon the said property, as well as compensation for their or his own services, apply the said proceeds to the payment of interest on the bonds secured hereby in the order in which such interest shall have become due rateably to the persons holding the coupons evidencing the right to such interest, & after paying all interest that shall become due to apply the remaining proceeds of such sale as aforesaid to the payment of the principal of the bonds secured hereby, rateably, to the persons holding the said bonds, & after

the payment of the principal of the bonds secured hereby, if any surplus shall remain, to pay over the said surplus to the party of the first part, or to dispose of the same as any court of competent jurisdiction may direct. And it is hereby declared that the receipt or receipts of the said trustees the survivors of them their or his successor or successors shall be a sufficient discharge to the purchaser or purchasers of said premises for his or their purchase money & such purchaser or purchasers his or their heirs, executors or administrators, shall not, after payment of the receipt, & having such receipt, be liable to see the application of such purchase money upon or for the trusts & purposes of these presents or in any manner whatsoever be answerable for any loss or misapplication or nonapplication of such purchase money or any part thereof, or be obliged to enquire into the necessity or expediency of or authority for any such sale.

Third. At any sale of the aforesaid property, or any part thereof, made to enforce the lien created by these presents, pursuant to the power herein granted, or by judicial authority, the parties of the second part hereto as trustees or the survivors of them their or his successor or successors, may bid for and purchase the property so sold on behalf of all the holders of the hereby secured bonds, then outstanding, in the proportion of the respective interests of such holders; provided, that if all the property hereby conveyed to be sold, as aforesaid, at the time at which the purchase herein authorized may be made, shall not exceed the whole

amount of the bonds then outstanding with the interest accrued thereon, in behalf of which the said purchase shall be made, and, provided that if a portion of the said property shall be sold, it shall be sold at such price as shall in the judgment of the said Trustees the survivor of them their or his successor or successors, be reasonable.

Fourth. In case default shall be made in the payment of any half yearly interest, or any of the bonds hereby secured, at the time and in the manner provided in the coupons or interest warrants therewith issued, the said coupons having been presented & the payment of the interest therein specified having been demanded, and if such default shall continue for the period of three months after the said coupons shall have become due and payable, then & thereupon the principal of all said bonds shall be at the option of the Trustees the survivor of them his or their successor or successors become immediately due & payable; but a majority in interest of the holders of the said bonds may nevertheless, in writing, or by the vote of a meeting held pursuant to notice published daily for two weeks in a newspaper in the Cities of Portland Oregon, San Francisco, California, & New York City, New York, and before the interest in arrears shall be paid, instruct the trustees the survivors of them their or his successor or successors, to declare the said principal to be due, or waive the right so to declare on such terms and conditions as the majority may deem proper, or may annul or reverse the determination of the Trustees the survivor of them

their or his successor or successors, provided that no action of the Trustees the survivors of them their or his successor or successors, or of the bond holders shall extend to or be taken to affect any subsequent default or to impair the rights resulting therefrom.

Fifth. The Trustees, the survivors of them their or his successor or successors, shall have full power in their discretion, upon the request of a majority of the directors of the said Company to convey by way of release or otherwise to the person or persons designated in & by such written request any of the lands or property hereby conveyed or intended so to be acquired or held by the said Company for the purpose of Stations, Mills Depots Shops or other buildings and shall also have power to convey as aforesaid on like request any lands or property which in the judgment of the said Trustees or the survivor of them herein named or their or his successor, shall not be necessary for use in connection with the said property, or which may be held by the said Company for the supply of fuel water Clay Timber or other material, and also to convey as aforesaid on like request any lands not occupied by said Company or which may become desired by reason of a change of the location of any Depot Shop or other building connected with the business or operations of the said Company. And such lands occupied by the said Company & adjacent to such building or buildings as the Directors of the said Corporation or a majority of them may deem it expedient to disuse or abandon, by reason of such change, & to consent to any such changes & to

such other changes in the location in any and all such mills depots shops or other buildings as in their judgment shall have been expedient to make & deliver the conveyance necessary or proper to carry the same into effect. But any lands which may be acquired for permanent use in substitution for any so released shall be conveyed to the Trustees hereinbefore named the survivors of them their or his successor or successors, upon the trusts expressed defined created or declared by these presents, unless the directors of the Company shall at the time of communicating such request as aforesaid to the Trustees of the bond holders hereby constituted, or the survivors of them their or his successor or successors or thereafter and prior to the completion of such sale present and deliver up to such last Trustees or the survivors of them their or his successor or successors, for cancellation such a number of the bonds hereby secured as shall be equal. at the par value thereof, the price or consideration money for which such property shall be released or conveyed as aforesaid in which case the said last named Trustees or the survivor of them their or his successor or successors shall release or convey the same upon such written request as aforesaid & shall cancel & destroy the bonds so delivered up & surrendered but the proceeds of all lands released as aforesaid except as last herein provided shall be paid over to the Trustees the survivor of them their or his successor or successors to be applied by them or him to the purchase of bonds of the said Company in open market, but the said Company shall have full power

to dispose of according to their discretion such portions of the equipment machinery & implements at any time held or acquired for the use of the said Company & to facilitate its operations as may have become unfit for such use, & to replace the same by new, anything hereinbefore contained to the contrary in any wise notwithstanding.

Sixth. Upon a default in the payment of the interest or principal of the bonds hereby secured, or in the performance of any of the covenants herein contained, upon a requisition in writing signed by a holder or holders of a majority of the bonds, & a proper indemnification by the said holders to the Trustees or the survivor of them their or his successor or successors, against the costs and expense to be by them or him incurred, it shall be the duty of the Trustees or the survivor of them their or his successor or successors, to enforce the rights of the bond holders under these presents by entry, sale, or suit at law or in Equity, as being advised by Counsel learned in the law as they or he shall deem most expedient for the interest of all the holders of the said bonds, subject to the power hereby declared of a majority in interest of the holders of the said bonds by requisition in writing to instruct the said Trustees or the survivor of them their or his successor or successors, to waive such defaults; provided, that no action of the said Trustees or the survivor of them their or his successor or successors or bond holders, or both, in waiving such default, or otherwise, shall extend to or be taken to affect any subsequent default or to impair the

rights resulting therefrom.

Seventh. And it is hereby agreed by & between the parties hereto, & their successors & assigns herein, & with the holders of said Bonds, that the Board of Directors shall hereafter provide a "Sinking Fund" for the redemption & payment of the principal sum of said two thousand Bonds; that is to say, that "Ten per centum of the nett earnings of said Companys' Railroad, & Fifty per centum of the Nett proceeds of the Sales of the lands granted by said Act of Congress & the amendments thereto, shall be annually set aside by the Directors & Officers of said Company, & by them loaned at lawful interest on undoubted security, annually, and the Annual interest thereon invested in like manner, which investments, and the accruing interest thereon, shall constitute the "Sinking Fund" of this Company, for the redemption and payment of the principal sum & any unpaid interest of said two thousand bonds. And it shall be the duty of said Trustees & their successors, as often as they deem proper, to investigate the condition of said "Sinking Fund," and require the said Directors & Officers of this Company to faithfully execute this provision for the "Sinking Fund," and for that purpose, if necessary, to require the assistance of a Court of Equity.

And it is mutually agreed by and between the parties hereto that the said Trustees or the survivor of them their or his successor or successors, shall be entitled to just compensation for all services which they or he may

hereafter render in their or his Trust to be paid by the said Company or out of the income of the property, and for that purpose may at any time apply to the Court, without notice to any person, but the said Company, that the said Trustees or either of them or any successor or successors in such office may resign and discharge themselves or himself of the Trust created or declared by these presents by Notice in writing to the said Company three months before such resignation shall take effect, or such shorter time as they may accept as adequate.

NOTICE; That the said Trustees or either of them or their or his successor or successors may be removed in and upon a requisition declaration or instrument in writing under the hands & seal of a majority in interest of the holders of the aforesaid bonds duly executed, acknowledged & attested; that a successor or successors to such Trustee or Trustees shall be appointed with the consent of the holders, for the time being, of a majority in interest of the said bonds then outstanding, & the trustee or trustees so appointed shall thereupon become vested with all the powers, authorities & Estates received be granted to or conferred upon the parties of the second part by these presents and all the rights and interests requisite to enable them or him to execute the purposes of this trust, without any further assurance or conveyance by or on the part of the said Company, so far as such effect may be lawful, & upon the death resignation or removal of any Trustee or any appointment in his place, in pursuance of these presents,

all his power & authority by virtue hereof shall cease; & all the estate right title & interest in & to the said premises of any Trustee so dying resigning or being removed shall wholly cease and determine. And the said party of the first part for itself & its successors, in consideration of the premises, covenant and agree to & with the parties of the second part, or the survivors of them their or his successor or successors in the trust hereby created or declared, that the said party of the first part & its successors shall & will at all times hereafter keep open an Office or Agency in the City of New York for the payment of the principal and interest of & upon the bonds hereinbefore recited & described & hereby secured as the same shall become payable, & that any & every default in the due performance of this covenant shall be deemed & taken to be a waiver of presentment & demand of payment of all & every of the bonds & coupons aforesaid which may become payable during the continuance of such default. And it is hereby agreed between the parties to this Indenture that in the meantime and until default shall be made in the payment of the interest or principal of the said bonds or of some of them, or some part thereof, or in some of the covenants or agreements herein contained to be kept observed or fulfilled by the said party of the first part, it shall be lawful for the said party of the first part & its successors peaceably & quietly to have hold use possess and enjoy the said premises with the appurtenances & to receive the income tolls rents issues & profits thereof to its own use & benefit with-

out any hindrance or interruption suit or disturbance whatsoever of or by the said parties of the second part or their or his successors in the trust or any other person whatever lawfully claiming or to claim the same by from or under them or any of them. And the said party of the first part & its successors & all & every other person or persons whatsoever lawfully or equitably claiming any estate right title or interest of in & to the hereinbefore granted premises, by from or under or in trust from it shall & will at any time or times hereafter, upon the reasonable request, and at the proper costs & charges in the law, of the said parties of the second part or the survivors of them their or his successor or successors or assigns, make do & execute or cause or procure to be made done and executed, all and every such further and lawful & reasonable acts conveyances & assurances in the law for the better and more effectually vesting & conforming the premises hereby intended to be granted in & to the said parties of the second part, as by the said parties of the second part or the survivors of them their or his successor or successors, or their counsel learned in the law shall be reasonably devised or required. And also that the said party of the first part & its successors, the above granted bargained sold & assigned premises & every part & parcel thereof, with the appurtenances unto the said parties of the second part or the survivors of them or their or his successor or successors, against the said party of the first part & its successors; and against all and every person & persons whomsoever lawfully claim-

ing or to claim the same, by through or under it, shall & will WARRANT and by these presents forever defend.

RESOLVED 3d. That said two thousand Bonds shall be sold and disposed of according to the directions of the Board of Directors.

RESOLVED. 4th. That Edwin Russell, Esq. be authorized to sell Five Hundred of said Bonds at the City of London at not less than Sixty cents on the dollar, & that his commission be five per centum on net proceeds.

RESOLVED. 5th. That the President & Secretary be authorized to sell said Bonds in the State of Oregon in lots to suit purchasers at not less than Six Hundred dollars per Bond in U. S. Coin.

RESOLVED. 6th. THAT Director Newby be authorized to collect subscriptions, donations and take deeds for lands in Yamhill County.

Adopted, and on motion adjourned.

We the undersigned Directors unanimously concur in all the proceedings of the above meeting.

T. R. CORNELIUS

W. C. WHITSON.

E. W. HAINES

J. GASTON

Secy. O. C. R. R. Co.

Prest. O. C. R. R. Co.

Office of the O. C. R. R. Co.

Portland 27 June 1868

The newly elected Board of Directors met this A. M. at 10 o'clock. The meeting was called to order by E. W. Haines Secretary of the Old Board, who presented and read the proceedings of the Stockholders meeting of 25th May 1868.

Directors present Gaston, Ainsworth & Cornelius, all having filed their Oath of Office with the Secretary. Mr. Gaston was nominated and elected President of the Board for the ensuing year & with a few appropriate remarks took the chair.

Mr. W. S. Ladd was nominated and elected Treasurer of the Company.

E. W. Haines was nominated and elected for Secretary for the ensuing year.

Hon. J. W. Nesmith's declination to act as Director was read, accepted and ordered placed on file.

J. B. Underwood Esq was nominated and elected to fill the vacancy in the Board of Directors occasioned by the declination of Mr. Nesmith, filed his oath of office and took his seat as a Director.

On motion the following Resolution was unanimously adopted.

RESOLVED That the Oregon Central Railroad Company of Portland Oregon, does hereby adopt, ratify, confirm and accept all the terms conditions and stipulations of the contract to pay interest on Seventy

five thousand dollars of this Company's Bonds proposed by the County Court of Yamhill County Oregon, on the 19th day of June 1868 a copy of which is hereto attached marked "A," and that the President and Secretary be hereby directed to sign said contract on behalf of the Company and attach the seal of the Company to the same.

"A"

Whereas a majority of the legal voters of the County of Yamhill, in the State of Oregon, have petitioned the County Court thereof to aid in the construction of the Oregon Central Railroad through said County; and whereas the levying of an amount of tax sufficient to pay interest, at *seven per cent per annum*, on seventy five thousand dollars for twenty years, will aid in the construction and early completion of said Railroad—and whereas the levying of such a tax will be a compliance with the wishes of a majority of the voters of said County, petitioners as aforesaid, and whereas in constructing said Railroad through said County from North to South, the Yamhill River, or the North and South forks of said river will have to be bridged, and whereas the said Railroad Company will require for its use a telegraph line along the line of its said Railroad, which telegraph line said Railroad Company hereby agrees to construct and operate, and to transmit for said County free of charge all messages or dispatches in which said County shall have an interest, free of charge for a period of twenty years from the date said Company puts said telegraph line in Operation—and Whereas the early

construction of said Railroad through to said County, and the early construction of a bridge across the Yamhill river, or bridges, across its North and South forks, as may be determined by said Railroad Company, and the early construction of said telegraph line through said County are objects of great interest to the citizens of said County; THEREFORE, Know all men by these presents that this article of agreement made and entered into this 19th day of June, A. D. 1868, (wherein Yamhill County, Oregon, is party of the first part, and the said "Oregon Central Railroad Company" of Portland, Oregon is party of the second part) is made and entered into solely and expressly to secure the desirable objects above named—and is as follows:

WITNESSETH—That whereas the County Court of said County, at a special term of said Court, began and held at the Court House in the town of Lafayette in said County, commencing on Thursday the 18th day of June, A. D. 1868, made an Order having for its object the carrying out of the prayer of the petitioners aforesaid, and for other purposes, a certified copy of which *Order* is hereto attached, and marked "A," and made a part of this agreement; and whereas the President and Executive Committee of the said Oregon Central Railroad Company, to wit: J. Gaston, President & W. T. Newby & T. R. Cornelius, Executive Committee as aforesaid, being present, have assented to, and agrees to all the provisions of said *Order*; and whereas the Board of Directors of said Company, has and doth hereby ratify, approve, agree to & accept all

& singular the provisions and conditions of said *Order*, and hereby directs their President & Secretary to sign this agreement & attach thereto the Corporate Seal of said Company;

THEREFORE, in consideration of these premises, & in order to secure the early & sure construction of a first class railroad through said County, be it known that Yamhill County Oregon, party of the first part hereto, by the order of its County Court, made, & entered of Record at the called term of said County Court above set-forth, doth hereby contract & agree to & with the said Railroad Company aforesaid & the holders of the said Bonds described in the said *Order*, to hereafter faithfully collect & pay the said taxes, & to appropriate the funds raised by said taxes, to the payment of the interest referred to in the said Order, for the term of twenty years from the first day of July, 1868, and perform all and singular the obligations & stipulations of said County, according to the terms & conditions & stipulations of the said *Order* of the said County Court, hereto attached and marked "A" & made a part of this contract; & the said Railroad Company, upon its part, doth hereby contract & agree and doth hereby bind its associates, successors & assigns to faithfully prosecute the work of constructing its said Railroad through said County, according to the terms & conditions named in said *Order*, to the end that the said Railroad Company may be enabled to transport persons & property for said County, & the citizens thereof; and the said Railroad Company further agrees & hereby faithfully prom-

ises, to construct a good, suitable & substantial Railroad Bridge across the Yamhill River, or good, suitable & substantial Railroad Bridges across the North & South forks of said Yamhill river, which said bridge or bridges, as the case may be, said Company agrees shall be so constructed as to afford easy, safe & certain facilities for crossing said Yamhill river or said North & South forks of said river, as the case may be; and said Railroad Company agrees & hereby binds itself to open, & keep open, for the use of the public free from all charge, said bridge or bridges as soon as it or they be constructed; & said Railroad Company agrees & hereby binds itself to build said bridge or bridges, & to have the same completed, & ready for the use of the public on or before the 4th of July, 1870—and said Railroad Company also hereby further binds itself, that the free bridge or bridges, herein contemplated, & agreed to be built & kept in repair as aforesaid, shall be kept for the free & public use of the people of this State and the traveling public generally, for a period of not less than twenty years from and after the date of the throwing open said bridge or bridges for the use of the public, as provided for in said *Order "A"*; and said Railroad Company hereby contracts & agrees for themselves, associates, successors & assigns, faithfully to do & perform all & singular the conditions, considerations & stipulations contemplated in said *Order "A"*, & required by said *Order* to be done and performed by said Railroad Company.

IN TESTIMONY WHEREOF, the County Court of said County has, this 19th day of June, A. D.

1868, ratified and confirmed the same by the signature of the County Clerk of said County, attested by the seal of said County—and in further witness whereof, the said “Oregon Central Railroad Company” of Portland, has caused these presents to be signed by J. Gaston its President,, & by E. W. Haines, its Secretary, & attested by the Corporate Seal of said Company.

Signed, sealed and delivered, in duplicate, by the contracting parties hereto, at the town of Lafayette, in said County, this 19th day of June, A. D. 1868.

(Seal of Yam- Attest the Seal of said County.

hill Co. Court)

(Signed) S. C. ADAMS

Clerk of said Court.

(O. C. R. R. Co.

seal)

Attest the Corporate seal of said
Railroad Company.

(Signed)

E. W. HAINES,

J. GASTON,

Secy. O. C. R. R. Co.

Prest. OC R. R. Co

A RAILROAD ORDER.

Whereas a majority of the Legal Voters of Yamhill County Oregon, have petitioned the County Court of said County, to take such action by the levying of an annual tax, as will secure the early construction of a Railroad through said County, with free bridges for public use across the Yamhill River, or its two branches, as the case may be, for the use of said County & the citizens thereof, & to secure the construction of a line of telegraph through said County for the free

use of the Offices of said County for County purposes, to the extent of a seven per cent annual interest upon seventy five thousand dollars for twenty years, said interest to be paid in U. S. gold coin; and after due consideration of the prayer of said petitioners; Therefore be & it is hereby **ORDERED** by the County Court of said County, in & at a special term of said County Court, begun & held on the 18th & 19th days of June, 1868, as follows:

Section 1st. That for the purpose of securing the transportation of gravel, stone, brick, clay, lumber & timber, for the construction & repairs of the County buildings of Yamhill County; and for the purpose of securing free bridges for the public use of all persons, as hereinafter provided in Section Five of this *Order*, and for the purpose of securing the transportation of persons & property as provided in said section, & for other purposes as hereinafter & hereinbefore provided, the Corporation known as the Oregon Central Railroad Company of Portland, Oregon, be & is hereby authorized to issue Seventy five Bonds of the sum of One Thousand dollars each, bearing interest at the rate of seven per cent per annum, as shown by the coupons on each of said seventy five Bonds, & said interest commencing to run on the first day of July 1868, & payable on the first days of January & July thereafter, Semi-Annually for the term of twenty years; said Bonds having thereto attached to each forty interest coupons, each coupon representing the half yearly interest of its respective Bond; said coupon to be signed by

the Secretary of said Company & endorsed by the County Clerk of said County, as hereinafter after provided, & to be made payable in U. S. gold coin at the County Treasury of said County, by the Treasurer thereof.

Section 2. That in order to carry out the provisions of the first paragraph of Section One of this *Order*, there shall be levied & collected in the year 1868, in the same manner as the other County Revenue is now or may hereafter be collected, a tax of three & one half mills on the dollar of all the taxable property in said County, in addition to the other taxes, the same to be paid in the gold or silver coin of the United States, and the money to be derived from such tax, shall be & is hereby appropriated & set aside to constitute a separate "Fund," to be known as the "Railroad Fund," out of which "Fund," the said interest coupons payable January 1st 1869 & July 1st 1869, on said Seventy five Bonds, hereinbefore described, shall be paid as they may fall due & be presented for payment at said County Treasury, & if there shall not be in the said "Fund" sufficient money to pay the said coupons payable January 1st 1869 & July 1st 1869, or if there shall be a surplus after paying said coupons payable on that date, the County Court shall make such arrangements in this respect, as is provided in Section Three of this *Order*.

Section 3. That in order to further carry out the provisions of the first paragraph of Section one of this *Order*, there shall be & is hereby levied to be collected in the year 1869, and annually thereafter for the period

of Eighteen years, in the same manner as the other County revenue is or may be collected a tax of three mills on the dollar, of all the taxable property in said County, in addition to the other taxes; provided however that the County Court may at any time reduce the rate of this tax in proportion to the increase of taxable property within said County, so that the revenue so collected by said tax shall not be less than five thousand two hundred & fifty dollars per annum, the said tax to be paid in the gold or silver coin of the United States, & the moneys to be derived from such tax shall be & the same is hereby appropriated & set aside to constitute a separate "Fund" to be known as the "Railroad Fund," out of which "Fund" the said coupons for interest on said Seventy five Bonds hereinbefore described shall be paid as they may fall due and be presented for payment at said County Treasury from time to time for the period of Nineteen years, & on payment thereof by the County Treasurer, said interest coupons shall be cancelled & destroyed in the presence of the County Court of said County, and if at any time there shall not be a sufficient sum of money in said "Railroad Fund" to pay said interest when due, then an amount sufficient to make up such deficiency shall be taken from the "General County Fund" for that purpose, or the County Court shall make such other contracts & arrangements as may be necessary to make up such deficiency; and whenever on the first day of January of any year there shall remain a surplus in said "Railroad Fund," after the payment of the interest on said

Bonds, payable on that date, such surplus shall be paid into the General County Fund; Provided always, & said coupons shall so express, that said County shall never be liable to pay the principal of said Bonds; nor shall said County, or the Treasurer, pay or be required to pay said coupons or any of them to the said Railroad Company until said Railroad Company shall have constructed, completed & operated their said Railroad (which is understood and agreed to be a first class Railroad) from the City of Portland, Oregon, to the South bank of the Yamhill river, or to the south bank of the south fork of said Yamhill river, as the case may be; nor until the telegraph line aforesaid is likewise completed & operated from the said City of Portland to the said south bank of the said Yamhill river, or the said south bank of the said South fork of the said Yamhill river, as the case may be; but shall place said seventy five Bonds, together with the whole of said coupons, thereto attached, in the hands of William S. Ladd, Trustee as herein provided, who shall collect the coupons as fast as they fall due, & said Ladd shall retain said money so collected until said Company complies with its contract as herein set forth. And when said Railroad Company shall have completed & operated its first class Railroad & its telegraph line as aforesaid, then said County Court agrees & hereby binds itself to order the Trustee hereinafter & hereinbefore named, to surrender to & turn over to said Railroad Company the whole of the Seventy five Bonds hereinbefore named together with the whole of the coupons attached to said

Seventy five Bonds with any sums of interest he may have already collected; provided nevertheless it is expressly understood, stipulated & agreed to & by the said Railroad Company, to & with the said County of Yamhill, that said Railroad & said Telegraph are both to be fully finished completed & in running order & operation to the said Yamhill river or the south branch thereof, on or before the fourth day of July, A. D. 1870; and it is further understood & agreed, by & between the contracting parties hereto, that if the said Oregon Central Railroad Company of Portland, shall from any cause fail to complete said Railroad & said Telegraph line from the City of Portland aforesaid to the south bank of the Yamhill river, or to the south bank of the south fork of said river on or before the said Fourth day of July, A. D. 1870, then & in that event this contract is to be cancelled & of no effect whatever, & that in the event of a failure of said Railroad Company to comply strictly & faithfully with all its agreements & stipulations herein set forth, then this *Order* is to be deemed null & totally void & of no effect whatever.

Section 4. That in order to further carry out the provisions of the first paragraph of Section One of this *Order*, it shall be the duty of the County Clerk of said County, whenever after the execution of the contract hereinafter provided for, said Company shall present to him the said Seventy five Bonds described in Section one of this *Order*, to endorse with his official signature, in the form of a warrant upon the Treasurer of the County, each & all of the said interest coupons

attached to said Seventy five Bonds, which signature shall bind said County to pay the same according to their tenor as aforesaid; & after said coupons shall have been so endorsed by said County Clerk, he shall deliver the whole of said Bonds, together with the said Coupons attached, to William S. Ladd Banker, of the City of Portland, Oregon, who shall act as Trustee between said County & said Company, for the purposes hereinafter & hereinbefore named & shall give such security for the faithful discharge of his trust as may be hereafter required by said County Court, & it shall be the duty of said Trustee to receive & safely keep all of said Bonds & coupons until ordered by said County Court to pay the same over to said Railroad Company, which order shall be made as soon as said Railroad Company shall have fully complied with their part of this Contract in the construction of their said Railroad: Provided said Railroad Company shall live up to and fulfil this part of their contract on or before the Fourth day of July aforesaid & not otherwise; and it is understood & agreed by the contracting parties hereto that the compensation of said Trustee for his services herein shall be a reasonable compensation for such services to be estimated by said County Court, & to be paid by said Railroad Company; & it is further understood and agreed that the route of said Railroad shall run from the City of Portland through to Washington County via Wapato Lake & through Yamhill County from the North line to the South line thereof.

Section 5. That the provisions of the preceding sec-

tions of the Order, & the agreements of this County to pay the interest referred to in said Section is made upon the express condition & consideration that said Oregon Central Railroad Company does contract & agree, by the filing of its agreement hereinafter referred to, at any & all times for the period of twenty years from the fourth day of July A. D. 1870, to transport and convey over their Railroad all public messengers required to travel at the expense of said County & all County officers required to travel at the expense of said County, free of charge, and transmit over their Telegraph line all messages which would otherwise go at the expense of said County, free of charge for twenty years; & also transport, carry & convey over their Railroad for twenty years, to or from any point on their line, as may be required, free of charge or other compensation than is provided in this *Order* all stone, gravel, earth, lumber & timber, or other materials which said County may need to be transported over said Railroad, for its County Buildings, and all furniture & stationery required in the County Offices for the use of the County, & all articles & animals with their necessary attendants on the way, to & from the Annual fairs of the Yamhill County Agricultural Society & to & from the fairs of the State Agricultural Society, intended for exhibition for premiums at such fairs, & such Company shall further contract to construct its bridge across the Yamhill river or the two branches thereof, as the case may be, in such a manner, that either the upper or lower chord of the bridge or bridges may be used as a carriage way

for the passage of wagons, horses & footmen, & that the same shall be kept in good repair & open to the free use of the public without charge, for the period of twenty years; and such Company shall further contract not to charge a higher rate for freight or passage of the products & citizens of said County, from points in said County to or from the City of Portland or elsewhere than they charge for like freight or passage upon similar & equal distances upon any other portion of the line of their said Railroad.

Section 6. That in order to avail themselves of the provisions of this Order, said Railroad Company at a meeting of their Directors shall accept the propositions contained in this *Order*, & by a resolution spread upon their Journal direct their President & Secretary to enter into & sign an agreement in writing, attaching thereto the provisions & a certified copy of this *Order*, and file a copy of said Agreement duly executed in duplicate, with the Clerk of said County, which Agreement & duplicate shall be signed by the President & Secretary of said Company & be sealed with their Corporate Seal, binding said Company to faithfully perform all & singular the conditions & considerations on the part of said Company specified in this *Order*, & the County Clerk of said County is hereby authorized & directed, on behalf of said County to sign the said Agreement & duplicate, which signing by said Clerk shall be attested by the County Seal of said County, which signing & sealing by said County Clerk shall bind the County of Yamhill faithfully to levy & collect the said tax & pay

the said interest coupons as they may fall due, upon the conditions & stipulations herein set forth, for the period of twenty years, as is herein provided and specified and not otherwise.

On motion at 1 o'clock P. M. a recess was declared to 8 o'clock P. M.

At 8 o'clock P. M. the Board was called to order by the President. Present Gaston, Ainsworth, Underwood and Newby (Newby having filed his oath of office).

On motion it was

RESOLVED, That the road of this Company through Yamhill County be located on the line surveyed by D. C. Lewis last year by Wapato Lake and McMinnville and that the Company establish a Depot on the Land Claim of _____ and Houseworth, and also a Depot within the present limits of the town of McMinnville.

On motion the Board adjourned.

E. W. HAINES,
Secy. O. C. R. R. Co.

J. GASTON,
President.

Office of the Oregon Central R. R. Co.

Portland, 25 August 1868.

The Board of Directors met this day at 1 o'clock P. M. pursuant to call of the President.

Directors present, Gaston Prest. Ainsworth, Cornelius and Underwood.

The contract with Mrss. Stitzel & Upton to sell the Company lands &c, dated 18th day of August, A. D. 1868 (on file in this office) was read and on motion it was ratified with the following:

Amendments, viz.:

Erase: on the eighth line the word "when" (after the word Upton) and the words "the interests" on the ninth line, on the second page from the top—and insert in the place thereof the words "whenever in the opinion of the Board of Directors the interests".

Erase: "and when it is reasonable and just that such action should be taken" words on the tenth and eleventh lines from the top of page two.

Add: The said Company reserve the right to annul this Contract, by giving thirty days notice to said Stitzel & Upton, whenever in the opinion of the Board of Directors, they, the said Stitzel & Upton, are not promoting the interests of the Company.

On motion a recess was declared to 8 o'clock this P. M.

The meeting was called to order at 8 o'clock P. M. by Pesident Gaston. Present Gaston, Ainsworth, Cornelius, Underwood & Newby.

Capt. Ainsworth presented the following: viz.

RESOLVED: That the Officers of the Company

be authorized to enter into a contract with John A. Slavins, providing for a regular way station on his land on the Summit of the Portland Mountain, provided that the said Slavins will lay off One hundred acres of land in proper form for a town, give the Company the right of way through his land for the Railroad, the right to the water from the Spring near the "Ghost House," and right of way for the water pipes therefrom, and convey by good title every alternate Block of Lots in said town so laid off". which Resolution on Motion was adopted.

It was directed that the Engineers proceed to Holmes Pass in Polk County, commence at the point where survey stopped and Survey to Albany, Corvallis & Eugene City to about four miles beyond Eugene City, through
————— Pass.

On motion the Board adjourned.

E. W. HAINES,
Secretary.

J. GASTON,
President.

Office Oregon Central Railroad Co.

Portland, August 27, 1868.

The Board of Directors met at 8 o'clock P. M., pursuant to call of President.

Present—Gaston, President Ainsworth & Newby.

On motion President and Secretary be authorized to execute the contract with S. Coffin for Trestle work on the First Five Miles of the Railroad, according to the terms of the contract now drawn up and read to this meeting. Motion adopted.

On motion adjourned.

E. W. HAINES,
Secretary.

J. GASTON,
President.

Office Oregon Central R. R. Co.

Portland, 31 Octo. 1868.

The Board of Directors met pursuant to the call of the Prest. present Gaston President, in the chair, Ainsworth, Newby, Cornelius, & Underwood.

On motion of Newby, it was—

RESOLVED: That the proposal of Simeon G. Reed & Co. for the building of One hundred and fifty miles of the Company's railroad is hereby accepted, and the President & Secretary of the Company are hereby directed to execute the contract therefor, as the same has been drawn up and read to the Board.

Which resolution was unanimously adopted.

And thereupon in the presence of the Board the said contract is signed in duplicate by the said Reed & Co. and on behalf of the Company by the President and Secretary and sealed with the seal of the Company and one of the originals thereof is filed with the Company's records.

On motion it was unanimously:—

RESOLVED That the President and Directors continue the canvassing for subscriptions and donations of all kinds of property to the Company, on the best terms they can secure; and that the President be author-

ized to negotiate and sell such pieces of real estate, land, town lots &c as may be necessary to raise money to pay the Company's debts and carry on the business of the Company. And that land and other real estate, or other property be sold and transferred to creditors and claimants against the Company in satisfaction of their claims; that the sales be made in such way and manner as shall be directed by the President and shall best promote the interests of the Company; and that the President and Secretary be hereby authorized to execute in behalf of the Directors and the Corporation all deeds and conveyances necessary in the premises. Resolution adopted.

"It is ordered that the Trust Mortgage executed to Charles M. Carter and James B. Harker, on the 1st day of June 1868, to secure the payment of the principal and interest on two thousand One Thousand dollar Bonds, be amended in the following particulars to wit—(Refer to Mortgage on Co. Record & filed in this Office)—on page 3 on line 10, erase "two" & substitute "Three"; on line 12 erase "Two" & substitute "Three"; on line 14 erase "Two" and substitute "Three"; on lines 15, 16 & 17 erase the words 'numbered in a consecutive series from Number one to Number two thousand both inclusive' and substitute in place thereof, "divided into two series, one series of two thousand Bonds numbered consecutively from one to two thousand both inclusive, and a second series of one thousand bonds, marked "Second Series First Mortgage," and numbered from one to one thousand both inclusive." On line 22, after the word "presents" insert, "and that not more than twenty

thousand dollars per mile of the said first Mortgage Bonds shall be issued on said railroad, and that not more than three million dollars of said First Mortgage Bonds shall be issued on the said one hundred and fifty miles of railroad."

On page 4, line 11, erase "Two" & substitute "Three"; on line 27 erase "Two" & substitute "Three".

On page 5, line 16, erase "a point at or near the town of Eugene City," and substitute in place thereof "the one hundred and fiftieth mile post on said railroad". On lines 17 & 18 erase "and also and all future extensions of said Railroad."

On page 7, on line 8, after "income" insert "earnings" and after "profits" insert "receipts"; on line 9 between the words "derived" & "had," insert "present and prospective," on line 10 after the word "received" insert "or earned by said Company's Railroad"; on line 27 erase "three" & insert "twelve."

On page 8, on line 2, erase "three" & insert "twelve".

On page 13, on line 16, erase "three" & insert "twelve".

On page 17, on line 2, after the word "principal" insert "for twelve months".

On page 18, on line 4, erase "Two" & substitute "three", on line 18 erase "Two" & substitute "Three".

On page 21, on line 19, after the word "income" insert "earnings"; on line 27, after the word "them" insert, "And it is contracted and agreed by and between the said

Railroad Company, the said Trustees, the said Bond holders or any of them, that this Mortgage shall protect all the property rights, franchises earnings, profits, incomes receipts, dividends, herein mortgaged to secure the payment of the said Bonds and the interest thereon from the attachments liens judgments and all claims of all persons lawfully claiming or to claim the said property or any part or description of the same or interest therein in satisfaction or otherwise of their said claims. And it shall be the duty of said Railroad Company and of the said Trustees, and the right and privilege of any holder of the said Bonds or any of them, to employ agents, attorneys and Counsel and take any action necessary under the circumstances to protect said property or any of the same, or any earnings or profits of the same, from any and all claims, attachments, judgments or liens of any and all persons not claiming under this Mortgage.”

In the “Notice” with reference to affixing Revenue stamps to the Bonds, the word “Two” is erased and “Three” substituted in place thereof.

And that the Mortgage heretofore recorded in the Clerks Office, be cancelled, and that a new Mortgage, embracing the one heretofore recorded and the above amendments, be executed by the President and Secretary of the Company, and delivered to said Trustees Carter & Harker, and recorded before any Bonds are issued.

On motion it was resolved that the salary of the Pres-

ident of this Company be Two Thousand dollars per annum, and necessary traveling expenses.

On motion it was resolved that the Acts of Director Cornelius and other Authorized Agents of the Company in issuing "Freight Receipts" heretofore at fifty cents on the dollar, be hereby ratified, and that the President and Secretary be hereby authorized to execute and sign such further amounts of "Freight receipts," or written obligations, payable by the Company in freight or passage on their road as there may be sale for at fifty cents on the dollar, to be of such form and amounts and be disposed of in such manner as the President may direct.

On motion the Board adjourned.

E. W. HAINES,
Secretary.

J. GASTON,
President.

Office of the Oregon Central Railroad Company
Portland 28 Dec. 1868.

The Board of Directors met pursuant to call by the President.

Present, Gaston, Ainsworth, Cornelius & Newby.

On motion the President was authorized to answer Pamphlet recently issued by the East Side Company.

It was moved by Director Ainsworth that the Contract with S. Coffin for Bridge Building is forfeited by said Coffin for non compliance on his part with the terms thereof in time of completing. Motion adopted.

On motion the Board adjourned.

E. W. HAINES,
Secretary.

J. GASTON,
President.

Portland 10th March 1869.

The Board of Directors met pursuant to call of the President and was called to order by the President. Present Directors Ainsworth, Newby, Cornelius and Gaston.

Mr. Coffin made a statement of his matters, when it was

RESOLVED: That the Officers of the Company be authorized to settle with Stephen Coffin for Bridges built by him at the measurement fixed by John Brazee.

The Board then fixed the following as prices for the land named, to Stephen Coffin on Bridge's account.

Newby	land	25	acres	.....	\$4,000.00
Johns	"	155	"	.....	3,000.00
Campbell	4 lots	4	lots	.....	1,100.00
Standley	land	200	acres	.....	1,600.00
Ben Stewart	"	160	"	.....	1,600.00
Jno Perkins	"	240	"	.....	2,500.00
Town property at North fork.....					5,000.00
J. Burton	land	40	acres	.....	400.00
J. Laughlin	"	50	"	.....	700.00
Jno Laughlin	"	40	"	.....	250.00

all in Yamhill County.

Betts claim eight dollars per acre.

Timber land on the line \$20 per acre

Outside land 10 " "

Conklin claim 12 " "

Nye claim, Angel land 12 " "

all in Washington County.

RESOLVED, That the above be prices for lands for the next thirty days.

RESOLVED, That W. W. Chapman be allowed Two Hundred dollars in full, and A. L. Lovejoy Seventy five dollars in full.

(over)

On Motion the Board then adjourned.

E. W. HAINES, Secy. J. GASTON, Prest.

Office Oregon Central R. R. Co.,

Portland Oregon 2d April 1869.

The Board of Directors met this A. M. pursuant to call of President. Present Ainsworth, Cornelius, Newby, and Gaston, and was called to order by the President.

J. C. Ainsworth, of S. G. Reed & Co., Contractors, gave notice of having stopped work on their contract on March 31st, 1869.

The President was directed to suspend work and take care of the property.

On motion, Board adjourned to meet at call of the President.

E. W. HAINES, Secy. J. GASTON, Prest.

Office of the O. C. R. R. Co.

Portland 20 April 1869.

The Board of Directors met pursuant to the call of the president—present Ainsworth, Cornelius Newby and Gaston, being called to order by the president, it was

RESOLVED: That the President be authorized to make such settlement with S. Coffin as he may think just and equitable. it was also

RESOLVED: That the Secretary be instructed to give ten days Notice of the Next Annual meeting of the Stockholders to be held on the 25th day of May 1869 by publication in the Daily Evening Commercial.

On motion adjourned.

E. W. HAINES, Secy.

J. GASTON, Prest.

Office of O. C. R. R. Co.,

Portland, May 25, 1869.

The Board of Directors met by order of the President, at 10 o'clock A. M. present Ainsworth, Newby and Gaston. President Gaston in the chair.

The following preamble and resolution was presented, read, and on motion of Director Newby, was unanimously adopted.

Whereas the Oregon Central Rail Road Company have expressed a willingness to annul the contract made with S. G. Reed & Co. for the construction of one hundred and fifty miles of Rail Road, and the said Reed & Co. have assented thereto, therefore

RESOLVED, That the contract with S. G. Reed & Co. for the building of one hundred and fifty miles of road under date of October 31st 1868, be rescinded, and that the amount due Reed & Co. for advances &C be paid as follows to wit: The Rail Road Comp'y to deed to

Reed & Co. all the Blocks and fractional Blocks deeded to Rail Road Comp'y by Couch & Flanders, Reed & Co. to credit the Rail Road Comp'y with Ten Thousand Dollars for the same, and that Reed & Co. take First Mortgage Bonds, at 58c on the dollar for the balance that may be due them, provided that Reed & Co. agree that they will not press the Rail Road Comp'y for interest on said Bonds 'till twenty miles of Rail Road is built, and provided further that Reed & Co. also put in all their Rail Road Iron, spikes, and chains now on hand, (purchased of P. C. Brinck) for Bonds, at the same rate of 58c on the dollar. *When* the company has raised money enough to lay down said Iron, and provided further that the deed to said lots shall not be executed until the Central Pacific R. R. Co. or other parties shall so take hold of this Company's Road as to secure the construction of said twenty miles of Rail Road.

The following Resolution was presented, Read, and on motion of Director Ainsworth was unanimously adopted.

RESOLVED That the President of the Comp'y be authorized to dispose of the first Mortgage Bonds to the Stockholders of the Company who have paid cash for stock (or its equivalent, on which cash has been realized or saved to the Comp'y) on the following terms: Any Stockholder who is willing to duplicate his subscription, to have the said Bonds for what he has heretofore put in, and also his additional subscription or advancement, at the rate of 58c on the dollar for the said Bonds, and upon the further condition, that the interest on said

Bonds shall not be pressed against the Comp'y 'till twenty miles of Road is built.

On motion adjourned.

E. W. HAINES, Sect'y

J. GASTON, Prest.

Office of the O. C. R. R. Co.,

Portland May 25 1869

10½ o'clock A. M.

In pursuance of the annexed notice:

NOTICE—Notice is hereby given that the annual meeting for the election of a Board of Directors of the Oregon Central Railroad Company for the next ensuing year, will be held at the office of the Company in the city of Portland, Oregon, on the twenty-fifth day of May, 1869, between the hours of 10 o'clock A. M. and twelve o'clock at noon. By order of the Directors.

E. W. HAINES Sec'y O. C. R.

Portland, May 12, 1869.

Ordered by the Board of Directors of this Comp'y at their meeting held April 20th, 1869, to be published, and which has been published daily for more than ten days last past, consecutively, in the "daily Evening Commercial" a daily newspaper published in the City of Portland. The Stockholders of the O. C. R. R. Co. met at their office in this City at the time stated above, and proceeded to the election of five Directors to serve for the next ensuing year. President Gaston in the chair. The Secretary call'd a list of the Stockholders,

and the following (representing a majority of all the stock) answered to their names.

J. Gaston	25005	shares
J. C. Ainsworth	5	"
S. G. Reed	5	"
W. T. Newby	12	"
J. M. Johns	98	"
G. W. Burnett by W. T. Newby, Proxy	4	"

An election was then held by ballot, resulting in the choice of J. C. Ainsworth, T. R. Cornelius, J. B. Underwood, W. T. Newby, and J. Gaston as Directors to Serve for the next ensuing year, they having received the whole and full vote cast, as above represented, whereupon the President declared the above named Gentlemen duly elected to serve for the term stated.

"Portland, Oregon, May 25th, 1869.

I, J. Gaston Prest of the Oregon Central Rail Road Company, do hereby certify that at an annual election of the Stockholders of the Oregon Central Rail Road Comp'y, held this day for the purpose of electing Directors to serve for the next ensuing year, the following named persons were elected (by a unanimous vote of all the stock represented) J. C. Ainsworth, T. R. Cornelius, J. B. Underwood, W. T. Newby, and J. Gaston.

J. GASTON, Prest.

On motion the stockholders meeting adjourned.

E. W. HAINES, Sect'y

J. GASTON, Prest.

Office of the O. C. R. R. Co.

Portland, July 5th, 1869.

The Board of Directors met at 10 o'clock a. m. pursuant to call of the President. Present, Gaston (presiding) Ainsworth, Cornelius, Underwood, and Newby.

The proceedings of Directors Meeting and Stockholders Meeting held on the 25th of May, 1869 was read and approved, previous to which the Board was re-organized by the election of J. Gaston, President, J. C. Ainsworth, Secty. and W. S. Ladd Treas'r, all to serve for the ensuing year, after canvassing generally in reference to future plans of the Company, on motion adjourned, to meet at the call of the President.

J. B. UNDERWOOD, Sect'y Pro Tem.

J. GASTON, Prest.

Office of O. C. R. R. Co.

Portland Aug 28—1869

The Board of Directors met at 11 o'clock A. M. pursuant to call of the President. Present J. Gaston Prest. (in the chair) T. R. Cornelius and J. C. Ainsworth.

On motion of Mr. Ainsworth the following resolutions were adopted.

RESOLVED that the supplemental order of the Washington County Court made Monday the 2nd day of August 1869, Extending the time to complete Rail Road to Hillsborough, and other matters in said Order, be and the same is hereby adopted and assented to.

RESOLVED That the Sect’y be directed to send copy for filing to clerk of Washington County.

Directors meeting of July 5th read and approved.

On motion adjourned.

J. C. AINSWORTH, Secty. J. GASTON, Prest.

Office of Oregon Central R. R. Co.

Portland, Nov. 18, 1869.

The Board of Directors met at 7 P. M. pursuant to call of the President.

Present, J. Gaston, Prest., in the chair, T. R. Cornelius, J. B. Underwood, W. T. Newby and J. C. Ainsworth.

The minutes of the last meeting was read and approved.

On motion T. R. Cornelius was elected Vice President to serve ’till the next annual election.

T. R. Cornelius proposed to give two dollars per acre for the following named tracts of land viz.

Nye	tract.....	160	acres
Barrett & Walker	“	100	“
McKinney	“	100	“
Geo. H. Smith	“	80	“
Betts claim	.....	240	“
Marble tract.....		160	“
Welch town lots	.....	35	“

and on motion of Mr. Newby, the proposition was accepted, and the President and Sect'y are hereby authorized and directed to make Deeds for the same forthwith.

On motion (of Mr. Cornelius) the following resolution was unanimously adopted.

RESOLVED That so much of the Resolutions adopted at a meeting of the Board of Directors on the 25th day of May, 1869, as provides that Reed & Co. shall put in all their Rail Road Iron, Spikes, Chains, &C (purchased of P. C. Brinck) for Bonds at the rate of 58c on the dollar, *when* the Company has raised money enough to lay down said Iron, together with that portion of said Resolution, which provides that the deed to Reed & Co. of Blocks and Fractional Blocks deeded by Couch & Flanders to Oregon Central Railroad Comp'y, shall not be executed until certain conditions are complied with &C, Be, and the same is hereby *recinded*, and the President and Sect'y are hereby authorized and directed to make said Deeds to Reed & Co. (forthwith) or to whom they may direct. The President stated that in accordance with Resolution passed by the Board of Directors on the 25th day of May 1869, the account of Reed & Co. for advances &C, had been presented, amounting to the sum of \$54,069.17, and that \$44,080.00 of the amount had been canceled by the delivery to said Reid & Co. of Seventy-six (76) of the Company's first Mortgage Bonds, of the value of One Thousand Dollars each, and numbered respectively from one to Seventy-six inclusive, which at the rate of 58c on the dollar

amounts to the above named credit. That he had obtained from Reed & Co. a further sum of Five Hundred and eighty Dollars in coin, for which one more Bond of the value of One Thousand Dollars was to be given, and on motion of Mr. Cornelius it was voted, that the Treasurer be authorized and directed to turn over one additional Bond to Reed & Co. for the \$580 thus rec'd by the President.

On motion the following Resolution was unanimously adopted.

RESOLVED: That the President be and he is hereby authorized to borrow One Thousand Dollars from S. G. Reed and to give the Company's note for the same payable in Six Months from date, with interest at the rate of one per cent per month, said money to be appropriated for the purpose of defraying his expenses East.

On motion it was ordered, That when J. B. Underwood shall present his account against the Company for services and money expended, amounting to enough for two Bonds at 58c on the dollar (including an order on the Post Office Department yet to be paid for .350\$) That the Treasurer be authorized and directed to turn over to said Underwood *two* of the Comp'y's first Mortgage Bonds of 1000\$ each, on condition that the interest on said Bonds shall not be collectable 'till twenty miles of said Rail Road shall be in operation.

On motion it was ordered that the President and Secretary be authorized and directed to make Deeds for 480 acres of Land (160 acres being taken from H. B.

Smith 240 acres from Chas. Angel and 80 acres from H. B. Tucker,) to W. C. Johnson, and that the President be charged with the same at the rate of four Dollars per acre.

RESOLVED That the President of the Company be authorized and directed to go to the Eastern States, to attend to the Company's interests and to negotiate for Iron and Rolling Stock, or enter into such contracts as will secure the building of the Company's Road, subject to the approval of the Board of directors.

On motion adjourned.

J. C. AINSWORTH, Secty. J. GASTON, Prest.

Office of Oregon Central R R Co

Portland Jan'y 12 1870 10 o'clock A M

Board of Directors met pursuant to call of Vice President.

Present T. R. Cornelius Vice Prest, in chair, W. T. Newby, and J. C. Ainsworth.

Minutes of last meeting read and approved. On motion of W. T. Newby, it was voted that a proposition be made in writing to sell Three Hundred Thousand Dollars of first Mortgage Bonds at the rate of 58c on the dollar, the proceeds of such sale to be applied to the completion of the first twenty miles of the Comp'y Road. The Bond holders to select a committee of three to direct and superintend the disbursement of such funds, and to keep possession of the Road 'till the expiration of the

two years named in the agreement at which time, if the Company fail to pay the interest, the Bond holders will have permission of the Comp'y to foreclose. The parties purchasing the Bonds agreeing to wait two years before demanding interest, and also to pay over to the Comp'y all nett profits of the Road. A paper containing the substance above stated has been signed by the Directors at this meeting.

On motion adjourned.

J. C. AINSWORTH, Sect'y

T. R. CORNELIUS, Vice Prest.

Office of O C R R Co.

Portland Jan'y 12 1870 1 o'clock P. M.

Board of Directors met pursuant to call of Vice President.

Present, T. R. Cornelius Vice Prest. in the chair, W. T. Newby and J. C. Ainsworth.

Director Newby stated that W. S. Ladd had offered 50c on the dollar for forty five thousand dollars of Comp'y first Mortgage Bonds, the coupons of which are endorsed by the County of Washington, said Bonds now being in the possession of said Ladd. On motion of Ainsworth the proposition of Mr. Ladd is hereby accepted. Minutes of last meeting read and approved. On motion adjourned.

J. C. AINSWORTH Secty.

T. R. CORNELIUS Vice Prest.

Office of Oregon Central Railroad Co.,

Portland March 15th 1870.

Board of Directors met pursuant to call of Vice President.

Present, T. R. Cornelius Vice Prest. in the chair.
J. B. Underwood and J. C. Ainsworth.

On motion, the following Preamble and Resolution was unanimously adopted.

WHEREAS The Oregon Central Rail Road Comp'y have failed to build the first twenty miles in time to avail itself of the Land Grant.

THEREFORE RESOLVED, That so much of the Resolution adopted May 25th, 1869, which restricts the collection of interest on first Mortgage Bonds sold to S. G. Reed & Co. 'till twenty miles of Rail Road shall be built by said Comp'y, be and the same is hereby rescinded, and RESOLVED further, That all Bonds sold by the Comp'y be free from restrictions as to collection of interest or coupons.

RESOLVED, That J. Gaston the President of this Corporation, be and is hereby fully authorized and empowered to enter into a contract for the construction of the Company's Rail Road with Henry McAlister Jr. and Charles S. Hinchman and their associates, of the City of Philadelphia, Pa. on the basis of the preliminary contract entered into on the 19th day of Jan'y 1870 a copy of which is filed with the Comp'y, and for that purpose

to fully and completely bind this Corporation to the faithful execution of said contract; and that the Vice President and Secretary of the Corporation is hereby directed to execute this Power and Resolution over their respective official signatures, and the seal of the Corporation, and forward the same to the President. On motion adjourned.

J. C. AINSWORTH, Secty

T. R. CORNELIUS, Vice Prest.

Portland Oregon May 25' 1870

Pursuant to provision of By Laws, the Stockholders of the O. C. R R Co met at the office of the Company this day for the purpose of electing a Board of Directors to serve for the next ensuing year. C. M. Carter on motion was made Secretary pro tem in the absence of J. C. Ainsworth Secretary. The roll of Stockholders being read over, and votes cast by ballot, and counted, it was found that the following named persons have received twenty five thousand and fourteen votes each as such Directors of this Company, viz. T. R. Cornelius, C. M. Carter, Cyrus Olney, Robt H Lawborn and J. Gaston, and that the whole number of votes cast was 25014; whereupon said named persons were declared duly elected Directors of the Oregon Central Railroad Company for the next ensuing year, and the President directed to certify their election accordingly.

On motion the meeting of Stockholders then adjourned sine die.

C. M. CARTER, Secretary J. GASTON, President.

Office of the O C R R Co

Portland, Oregon, May 25th 1870.

I, J. Gaston, President of the Oregon Central Railroad Company do hereby certify that at the annual meeting of the Stockholders of said Company, for the purpose of electing a Board of Directors, this day held at the office of the Company in the City of Portland, the following persons, to wit: T. R. Cornelius, C. M. Carter, Cyrus Olney, Robert H. Lawborn of Philadelphia, and J. Gaston, having received a majority of all the votes cast at such election to wit, twenty five thousand and fourteen votes for each of said persons for such Directors, and they are hereby declared to be duly elected as Directors of the Oregon Central Railroad Company for the next ensuing year.

J. GASTON,

Prest O C R R Company

Office of Oregon Central R R Co

Portland Oregon July 2nd 1870

In persuence of the call of the Prest. of the Comp'y the Board of Directors met at their office in No. 3 Carters Block in this City at 8 o'clock P. M. of this day, and was call'd to order by the President at 9:30 P. M.

Present, J. Gaston Prest. in the chair, T. R. Cornelius, J. B. Underwood and J. C. Ainsworth.

Director Ainsworth moved to adjourn this meeting 'till Wednesday the 6th inst. at 8 o'clock P. M. Motion lost.

The President then presented the following Resolutions, towit:

“WHEREAS on the 28th day of June 1870 J. Gaston did take and subscribe twenty three thousand five hundred shares of the Capital Stock of this Comp’y, and whereas such subscription was made to promote the best interests of the Comp’y; Therefore be it Resolved that such subscription be and the same is hereby ratified and approved adopted by a majority. Ainsworth not voting.

2nd. WHEREAS it is impossible for this Comp’y to comply with their contract heretofore made with the authorities of Washington County, on or about the 5th day of March 1868, and the amendments and extensions thereof

THEREFORE be it resolved that said contract is hereby canceled so far as this Comp’y is concerned and the said County released from all liabilities thereon; and that the Prest. of the Co. be hereby directed to notify the County Commissioners of said County of the action of this Comp’y, and serve a copy of this Resolution on said Commissioners, and that the Prest. also be hereby authorized to enter into an agreement in writing with said Commissioners to make good this action of this Board, and also to collect together all interest coupons signed by the officers of said County, and together with the County Clerk of said County cause the same to be destroyed. Adopted.

3rd. RESOLVED that the Oregon Central Railroad Comp’y hereby assents and expresses their assent and acceptance of all and singular of the provisions of the Act of Congress entitled an act Granting lands to aid

in the construction of a Rail Road and telegraph line from Portland to Astoria and McMinnville in the State of Oregon which act was passed by the Senate of the United States Congress on the 20th day of Feb'y A. D. 1870, and by the House of Representatives of said Congress on the 29th day of April A. D. 1870: and that the Prest. of this Comp'y be hereby authorized empowered and directed to forward a copy of this Resolution to the Secretary of the Interior at Washington City, D. C., and file the same in his office. Adopted.

4th. **RESOLVED** That a meeting of the Stockholders of the Oregon Central Rail Road Co. of Portland, Oregon be and the same is hereby call'd to be held at the office of the Comp'y in Portland, Oregon, on Saturday the 9th day of July A. D. 1870 at 7 o'clk P. M. for the purpose of considering the propriety of, and authorizing the desolution of such Corporation, the settling of its business, disposing of its property, and the division of its Capital Stock, and any other business that may then be brought before said meeting, and that the Prest. of this Comp'y be and he is hereby authorized and directed to give notice of such meeting, and of the purposes thereof, by publication of the same in at least five issues of the Daily Oregonian and daily Herald newspapers published in the City of Portland Oregon. Yeas and nays call'd for, yeas, Cornelius, Underwood and Mr. Prest. 3. Nays, Ainsworth 1. J. C. Ainsworth as Director, Stockholder and Bond holder protesting against the adoption of this Resolution.

5th. Resolved that the Board do now adjourn to

meet at the office of the Comp'y in Portland on Saturday July the 9th at Six o'clock P. M. for the purpose of considering the propriety and authorizing the desolution of this Corporation, the settling of its business, disposing of its property, and the division of its Capital Stock, and for the purpose of transacting any other business that may then come before the board. Yeas and nays call'd for, resulting as follows. Yeas, Cornelius, Underwood, and Mr. Prest. 3. Nays, Ainsworth 1. J. C. Ainsworth as Director Stockholder and Bond holder, protesting against the adoption of this Resolution.

Approved,

J. GASTON, President.

Attest

J. C. AINSWORTH, Sect'y

Office of Oregon Central Rail Road Co.

Portland July 9, 1870.

Board of Directors met pursuant to adjournment, and was call'd to order at 7:30 P. M. Present, J. Gaston, Prest. in the chair, T. R. Cornelius, J. B. Underwood, W. T. Newby, and J. C. Ainsworth.

Minutes of last meeting read. J. C. Ainsworth (Director) stated that the 1st Resolution adopted at the meeting of 2nd inst. was understood by him at the time as referring to Mr. Gaston's first subscription to the Capital Stock, and therefor allowed it to pass without voting. That upon making up the record he discovered the Resolution was intended to, and did apply to stock subscribed on the 28th of June 1870, and therefore he gave notice of his *Protest* against said Resolution. Di-

rector W. T. Newby also gave notice of his *Protest* against said Resolution.

While Mr. Newby was stating his objection to said Resolution the President signed the minutes of last meeting. Mr. Underwood presented the following.

RESOLVED, That a meeting of the Stockholders of this Company be and the same is hereby call'd to be held at the office of this Comp'y in the City of Portland Oregon, on Saturday the 13th day of August, A. D. 1870 at one o'clock p. m. for the purpose of considering the propriety of and authorizing the desolution of this Corporation, the settling of its business, disposing of its property, and dividing its Capital Stock: also for the purpose of electing five Directors to serve 'till the next annual election and until their successors are elected and qualified, and also for the purpose of transacting any other business that may then be lawfully brought before such meeting, and the President of this Company is hereby instructed to give notice of this meeting by publication for thirty days in the daily Oregonian and daily Herald, of Portland, Oregon, and for at least three issues in each of the weekly Oregonian and weekly Herald, said newspapers being published in the City of Portland, Oregon.

Yeas and nays call'd for, resulting as follows, yeas, T. R. Cornelius, J. B. Underwood, and Mr. Prest. 3. Nays, W. T. Newby and J. C. Ainsworth, 2. The Prest. declared the Resolution adopted, whereupon J. C. Ainsworth and W. T. Newby, as directors and Stockholders *Protested* against this Resolution.

Mr. Underwood presented the following.

RESOLVED. That the President be directed to make a full and complete statement of all the financial transactions of the Company from its organization to the present time, Showing the amount of money & property received, and from whome, the amounts expended and for what purpose, & also a full & complete statement in reference to all the property and assets of the Comp'y and the liabilities of the Comp'y, and to whom owing, and present the same at the meeting of the Board of Directors to be held on the 13th of August 1870. Adopted.

Mr. Underwood presented the following Resolution, which was adopted.

RESOLVED, That the Prest. be and is hereby instructed to publish notice in at least two of the daily newspapers within the City of Portland, requiring all persons having claims against the Company to present the same to him on or before the 1st day of August next.

Director Newby gave notice of his *Protest* against Resolutions No. 4 and No. 5, adopted at last meeting.

Mr. Underwood presented the following:

RESOLVED, That the Board do now adjourn to meet at ten o'clock A. M. on Saturday the 13th day of August 1870 for the purpose of considering the propriety of and authorizing the desolution of this Corporation, the settling of its business, disposing of its property, dividing its Capitol Stock and also any other business which may come before the meeting.

On motion to adopt, yeas and nays call'd for resulting as follows, yeas, T. R. Cornelius, J. B. Underwood, and

Mr. President. 3. Nays, W. T. Newby and J. C. Ainsworth, 2. Newby and Ainsworth protesting against the adoption of this Resolution. The President then declared the Board adjourned.

Approved

J. C. AINSWORTH, Secty.

J. GASTON, President.

Office O C R R Co.

Portland Aug. 13 1870.

Board of Directors met pursuant to the Published notice of the President and was call'd to order at 10 o'clock A. M. Present, J. Gaston, Prest. in the chair, J. B. Underwood, W. T. Newby and J. C. Ainsworth. Minutes of last meeting read and approved.

President presented statement of the outstanding debts of the Comp'y and the financial condition of the Comp'y in compliance with Resolution adopted at the last meeting.

Director W. T. Newby offered the following Resolution, and moved its adoption, to wit.

RESOLVED, That for the purpose of paying the present indebtedness of this Company, and carrying on the work of constructing the Road, and particularly to place the first twenty miles of the Road in a condition to lay the tract as speedily as possible, an assessment of ten per cent upon all unpaid subscribed Capital Stock be levied, payable forthwith at the office of the Company in Portland.

Yeas and nays call'd for, resulting as follows. Yeas,

W. T. Newby and J. C. Ainsworth, 2. Nays, J. B. Underwood and Mr. President, 2 so the Resolution was declared lost.

On motion adjourned to 2 o'clock P. M. of this day.

Attest

J. C. AINSWORTH, Secty.

Office of O C R R Co.

Portland, August 13, 1870.

Board of Directors met at 2 o'clock P. M., agreeable to adjournment. Present, J. Gaston, Prest. in the chair, W. T. Newby, T. R. Cornelius and J. C. Ainsworth. On motion of Mr. Cornelius the Board adjourned to meet at 8 o'clock P. M. of this day.

NOTICE TO STOCKHOLDERS OF THE
"OREGON CENTRAL RAILROAD COMPANY" OF PORTLAND, OREGON.

AT A SPECIAL MEETING OF THE BOARD OF Directors of the "Oregon Central Railroad Company" of Portland, Oregon, duly called and legally held at the office of the Company, in Portland, Oregon, on Saturday, July ninth (9th), A. D. 1870, at Six o'clock P. M., the following Resolution was duly and regularly adopted;

"RESOLVED, That a meeting of the Stockholders of this Company be and the same is hereby called to be held at the office of this Company, in the City of Portland, Oregon, on Saturday, the (13th) thirteenth day of August, A. D. 1870, at one o'clock P. M., for the purpose of considering the propriety of, and authorizing the

dissolution of this corporation, the settling of its business, disposing of its property, and dividing its capital stock, also for the purpose of electing five Directors, to serve until the next annual election, and until their successors are elected and qualified, also for the purpose of transacting any other business that may then be lawfully brought before such meeting; and, the President of this Company is hereby instructed to give notice of this meeting by publication for thirty days in the Daily Oregonian and daily Herald of Portland, Oregon, and for at least three issues in each, of The Weekly Oregonian and Weekly Herald, said newspapers being published in the City of Portland, Oregon."

Therefore all Stockholders in the Oregon Central Railroad Company of Portland, Oregon, are hereby notified and requested to appear at the office of such Company in the City of Portland, Oregon, on Saturday, the thirteenth (13th) day of August, A. D., 1870, at one o'clock P. M., for the purpose of attending to the transaction of the business specified in the foregoing resolution, and also any other business that may then be brought before such meeting of Stockholders.

By order of the Board of Directors.

J. GASTON,

President, Oregon Central Railroad Company.

Portland, July 11, 1870.

The Stockholders of the O. C. R. R. Co. met at the Comp'ys office in the City of Portland on August 13th, 1870, pursuant to the above call, and were called to or-

der by President J. Gaston at 1 o'clock P. M.

Mr. J. N. Dolph presented the following Resolution, which on motion was adopted.

"Resolved, that the meeting of Stockholders now proceed to the election of a Board of five Directors, that each stockholder vote by ballot, naming the Director he votes for on his ballot, and casting the same as his name is call'd by the President; and the Secretary is directed to record the name of each Stockholder voting and the number of votes that he casts."

The President appointed J. N. Dolph as teller. The following named persons voted as their names were call'd

J. C. Ainsworth	6
R. H. Towler, by G. W. Weidler	48504 votes
H. B. Tucker	6 "
Geo. W. Ebberts	18 "
S. Coffin	5 "
T. R. Cornelius	5 "
J. N. Dolph	1 "
Geo Weidler	1 "

whole number of votes cast	48546
resulting as follows:	

R. H. Towler rec'd	48513 votes
J. M. Gelman "	48505 "
Levi Estes "	48513 "
S. M. Smith "	48513 "
C. S. Silver "	48513 "

J. Gaston	“	10	“
J. C. Ainsworth	“	10	“
W. T. Newby	“	10	“
C. M. Carter	“	10	“
C. Olney	“	5	“
J. B. Underwood	“	5	“
Geo Weidler	“	8	“

whereupon the President declared the first five named as being duly elected.

Mr. W. T. Newby stated that in accordance with the “By Laws” of the Company, the Directors were to be elected on the 25th day of May in each year, to serve for one year and ’till their successors were elected and qualified, That on the 25th day of last May an election was duly held, and five Directors was duly elected, in consequence of which he protested against the present election.

On motion the meeting adjourned.

Attest

J. C. AINSWORTH,

Secretary.

J. GASTON,

President.

JOURNAL OF MINUTES

OF

O. C. R. R. CO.

OF PORTLAND

VOL. II.

“Office of the O C R R Company
Portland Oregon August 15th.
1870.

In pursuance of the call of the President of the Company, and in pursuance of the Bylaws of the Company, the new Board of Directors met at the Office of the Company in Portland this day at ten o'clock A. M. and proceeded to organize the Board—Levi Estes, C. S. Silver, Samuel M. Smith; and R. H. Towler having appeared as Directors in said Company; and proceeded to complete the organization of the Board. A ballot was then taken for officers of the Board, Messrs. Towler, Silver and Smith above named being present and voting, and J. Gaston acting as temporary Secretary. The following was the result of the balloting: For President, Samuel M. Smith; For Vice President, Levi Estes; For Treasurer, C. S. Silvers; For Secretary, J. Gaston.

Mr. Smith then took the Chair as President of the Board, and of the Company. On motion J. C. Ainsworth was removed from the office of Secretary of the Company.

Director Towler then offered the following Resolu-

tion, which was unanimously adopted, towit: Resolved that the 4th paragraph of Section One of the By Laws of the Company, adopted at the meeting of the Board on Sept 24th 1867, be and the same is hereby amended so as to read as follows, "4th The Board of Directors of this Corporation shall have the right and power to sell, assign, transfer and convey, any or all of the corporate franchises of this Corporation, to secure the construction of a Railroad and Telegraph line on the general route or line which may be adopted by this Company, provided that the Stockholders holding and representing three fourths of the subscribed stock of the Company, shall appear before the Board proposing to make such sale or transfer, and openly agree to and consent before the Board of Directors to such proposed sale or transfer, conveyance or assignment of such corporate franchises.

The President then delivered to the Board the following communication, which was read by the Secretary.
"Portland Oregon August 15th 1870

To the President and Directors of the Oregon Central Railroad Company of Portland Oregon:

Gentlemen: As President of the Willamette Valley Railway Company, I am authorized to, and do hereby propose to your Company, that if you will sell, assign, transfer, convey and set over to the said Willamette Valley Railway Company, all the right, title and interest, vested and contingent, of the said Oregon Central Railroad Company, in and to the franchises, benefits, priveleges, grants and lands, granted to your Company by an "Act of Congress" entitled, "An Act granting lands to aid in the construction of a Railroad and Telegraph line from

Portland to Astoria and McMinnville in the State of Oregon," which passed the Senate of the United States Congress Feb 28th 1870, then the said Willamette Valley Railway Co will build the said Railroad and Telegraph line, as proposed in said Act of Congress, and pay to your Company the sum of one dollar in consideration of such transfer and assignment of the said franchises and lands granted by said Act of Congress.

Respectfully,

BEN HOLLADAY,

President."

On motion the Secretary was ordered to incorporate said communication in the proceedings of this meeting, and file the same in the office. Mr. Silver then offered the following resolution which was unanimously adopted:

Resolved First, That whereas this Company has endeavored for three years past, to construct their Railroad Southwardly through the State of Oregon, and has been unable to do so, and is unable to secure the necessary money and means to do so, and whereas the Congress of the United States has passed an Act, entitled "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon," passed the Senate Feb 20 1870, and has designated this Company and their Assigns, as the grantee and beneficiary in said Act, and entitled under the terms and conditions of said Act, to take and hold and receive the franchises, benefits, grants and lands proposed in said Act, in aid of the construction of the said Railroad from Portland to Astoria and McMinn-

ville in the State of Oregon; and whereas this Company is unable to construct the said Railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon, and is unable to raise the necessary money and means to enable them, the said Oregon Central Railroad Company to comply with the terms of said Act of Congress proposing to aid in the construction of the said Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon; and whereas it is necessary to make immediate arrangements with some responsible Company in order to secure the construction of the said Railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon within the time limited in said Act of Congress; and whereas the Willamette Valley Railway Company has been duly incorporated and legally and regularly organized under the laws of the State of Oregon for the express purpose of constructing and operating a line of Railroad and telegraph from Portland to Astoria and McMinnville in the State of Oregon on the same general route with the said Oregon Central Company, and is now engaged in surveying lines for the purpose of selecting the best line for such Railroad and telegraph; and Whereas the said Willamette Valley Railway Company has expressly provided in their Articles of Incorporation the power to accept and receive the franchises, grants and lands proposed in said Act of Congress, and whereas the said Willamette Valley Railway Company is possessed of the necessary money and means to enable

(it) them to comply with all the terms of said Act of Congress, and construct the Railroad and telegraph line therein proposed to be aided, within the time limited in the law; and whereas the said Oregon Central Railroad Company having accepted said grants proposed in said Act of Congress, and assented thereto as prescribed in said Act of Congress; and whereas the said Willamette Valley Railway Company, by and through their President, Benn Holladay Esq, thereunto duly authorized and empowered, has by a proposition in writing, dated August 15th 1870 (a copy of which is filed in the office of said Oregon Central Company) proposed to construct and put in operation the said Railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon, on condition that said Oregon Central Railroad Company shall sell, assign, transfer, convey and set over to said Willamette Valley Railway Company, all and singular, the rights, benefits, interests, title and claim of the said Oregon Central Company, vested or contingent in or to, or which, they may be entitled to, of the said franchises, benefits, privileges, grants and lands, proposed to be given the said Oregon Central Railroad Company by the said Act of Congress, in aid of the said line of Railroad and telegraph from Portland to Astoria and McMinnville in the State of Oregon, and would also pay to said Oregon Central Railroad Company as a further consideration for the said transfer of the said franchises and lands, the sum of one Dollar; *Therefore*, be it *Resolved*, That the Oregon Central Railroad Com-

pany doth hereby accept the proposition of the said Willamette Railway Company. Before the adoption of this Resolution, R. H. Towler, on behalf of Ben Holladay, a stockholder who owns, holds and represents more than three fourths of all the subscribed capital stock of the Company, openly declared to the Board of Directors that he agreed and consented to the passage of the said Resolution, and agreed and consented as such stockholder to the proposition of the said Willamette Valley Railway Company, and was in favor of its acceptance by this Company. Director Silver then offered the following Resolution:

Second. Resolved that the Oregon Central Railroad Company of Portland Oregon, in and for the considerations set forth and expressed in the *First* Resolution aforesaid, and in and for the consideration of one dollar, doth hereby sell, assign, transfer, convey and set over to the Willamette Valley Railway Company of Portland Oregon, all the right title, interest and claim, vested and contingent, which the said Oregon Central Railroad Company, has or doth possess, or is entitled to have, in or to the franchises privileges, benefits, grants and lands proposed to be granted to said Oregon Central Railroad Company or their assigns, by the Act of Congress which passed the United States Senate Feb 20th 1870, entitled "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon." Before the adopting of this Resolution, R. H. Towler, on behalf of Ben Holladay a stockholder who

owns, holds and represents more than three fourths of the subscribed capital stock of this Company, openly declared to the Board of Directors that he was in favor of and agreed and consented to the sale of and transfer of the corporate franchises of this Company as proposed in said Resolution; The Resolution was then unanimously adopted.

Director Towler then offered the following Resolution:

Third: "Resolved that the President and Secretary of this Company, be and they are hereby authorized, empowered and directed to execute and deliver to the Willamette Valley Railway Company of Portland Oregon, a good and sufficient deed, upon and for the considerations contained in the letter of Ben Holladay Esq, the President of said last named Company conveying to said Willamette Valley Railway Company, all and singular the franchises, benefits, privileges, grants and lands, as is by the Second Resolution of said Board of Directors (Resolution marked "Second" above) of said Oregon Central Company, above written, assigned and transferred to said Willamette Valley Railway Company; and that said Secretary and President of this Company be also authorized and directed to execute and forward a certified copy of these said three Resolutions, this day by said Board adopted, to the Secretary of the Department of the Interior at Washington D. C." Before the adoption of this Resolution, R. H. Towler, on behalf of Ben Holladay, a stockholder who owns,

holds and represents more than three fourths of the subscribed capital Stock of the company openly declared to the Board that he was in favor of its passage, and agreed and consented to such a conveyance of the Corporate franchises of this Company as is proposed in said last Resolution, and then the Resolution was unanimously adopted. On motion of Mr. Silver the Board then adjourned to meet on the call of the President.

Attest

Approved,

J. GASTON,

SAMUL M. SMITH,

Secretary.

President

Office of the Oregon Central Railroad Company.

Portland Oregon Sept 7th 1870.

Pursuant to call of the President, the Board of Directors of this Company met at the office of the Company in Portland Oregon this 7th day of September at 10 o'clock A. M. Director J. M. Gilman appeared as a Director. President Smith in the chair present, and also Directors Gilman, Towler and Estes, President called the Board to order. Director Towler offered the following Resolution, which on motion of Director Gilman, was unanimously adopted. Resolved. *First.* That the meeting of this Board called and held on the 15th day of August 1870, and the election of officers then made by this Board, be hereby ratified confirmed and approved. Director Towler offered the following Resolution, which on motion of Director Gilman was unanimously adopted.

Resolved, *Second*, That the adoption of the Resolutions, "First," "Second" and "Third" and the said Resolutions themselves, adopted by this Board on August 15th 1870, accepting the proposition of the Willamette Valley Railway Company to build a Railroad under this company's Land Grant; and transferring and authorizing the officers of this Company to deed and convey to said Willamette Valley the Land Grant made by Act of Congress mentioned in said Resolutions of August 15th 1870 to this Company, and each and all of the items of said Resolutions of this Board of the 15th of August 1870, be hereby ratified confirmed and approved. R. H. Towler, before the passage of the last Resolution above, on behalf of Ben Holladay as principal stockholder, holding and owning more than three fourths of the Stock of this Company arose and stated to the board, that he agreed and consented to the passage of this Resolution.

Director Gilman then offered the following Resolution, which upon the motion of Director Towler was unanimously adopted; R. H. Towler, on behalf of Ben Holladay, as holder and owner of more than three fourths of the Stock of this Company, openly agreeing and consenting before the Board to its passage. Resolved. *Third*, That the deed of the officers of this Company, made and executed on the 15th day of August 1870, conveying to the Willamette Valley Railway Company, the land Grant conferred on this Company by Act of Congress, and described in said Deed, be hereby ratified adopted and confirmed.

Director Towler then offered the following Resolution. Resolved. *Fourth*, That the action of a former Board of Directors of this Company, on the 25th day of May 1869, and all acts or Resolutions of said Board since that day releasing or pretending to release S. G. Reed & Co. from their contract with this company, dated and entered into on October 31st 1868, contracting and agreeing to construct one hundred and fifty miles of this Company's Railroad; and all acts or Resolutions of said Board in any way qualifying or modifying said Reed & Co's contract, or any other contract or agreement between this Company and said Reed & Co, be hereby reversed rescinded and declared null and void; and that the Secretary of this Company be hereby directed to notify and request said S. G. Reed & Co in writing, to return to and deliver up to C. S. Silver, the Treasurer of this Company, all bonds, coupons, or other property they have received under the said pretended release of May 25th 1869; and that if they fail to return such Bonds coupons or other property within ten days from the date of such notification and request, the President and Secretary of this Company be hereby authorized, to commence on behalf of the Company, proper legal proceedings to recover said property, or cancel such Bonds and coupons in their hands, and also to recover damages on their failure to proceed with the construction of this Company's Road under said contract of October 31st 1868.

On motion of Director Gilman the above Resolution was adopted by yeas, Gilman Towler and Mr. Presi-

dent, Nays Estes, on motion of Mr. Estes the Board then adjourned to meet on the call of the President.

Attest.

J. GASTON,
Secretary.

SAML M. SMITH
President.

Office of the Oregon Central R R Company
Portland Oregon Sept 29th, 1870

Pursuant to call of the President the Board met at the office of the Company this day at one o'clock P. M.

Present, President Smith in the chair and Directors Silver, Towler, and Gilman.

The President called the Board to order.

Director Towler moved that the minutes of the last meeting be dispensed with—adopted. J. Gaston, Secretary, tendered his resignation as Secretary, which on motion was accepted. R. H. Towler was then nominated and elected by ballot secretary of the Company in place of J. Gaston resigned. On motion the Board adjourned to meet on the call of the President.

Attest.

J. GASTON,
Ex Secretary.

SAML M. SMITH,
President.

Office of the Oregon Central R R Co
Portland Oregon Sept 30th 70.

Pursuant to call of the President, the Board of Directors met at the office of the Company this day at one o'clock P. M. Present, President Smith in the Chair, and Directors Silver and Gilman. Director

Smith tendered his resignation of the Office of President of the Company, which on motion was accepted. Director Silver was then nominated and elected by ballot President of the Board and Company, having received three votes, and was declared duly elected President. On motion the Board then adjourned to meet on the call of the President. (No signatures)

Office of the Oregon Central R R Co.

Portland Oregon March 27th 1871.

Pursuant to a call of the President the Board met at the office of the Company this day at 12 o'clock M. Present, Mr. President, Directors Smith, Estes, and Gilman. The minutes of the last meeting were read and approved. The resignation of Dr. R. H. Towler as Secretary and Director of the Company was then read and on motion was unanimously accepted. On motion S. M. Smith was elected Secretary pro tempore. On motion of Mr. Estes the Board then proceeded to elect by ballot a Director to fill the vacancy caused by the resignation of Dr. Towler. Mr. W. L. Halsey received four votes and was declared duly elected. He then appeared and qualified. Mr. Halsey offered the following Resolution which was unanimously adopted:

Whereas on the 31st day of October 1868 a contract was entered into by and between this Corporation and Simeon G Reed & Co. by the terms and conditions of which the said Simeon G Reed & Co were to build for this Corporation one hundred and fifty miles of Railroad; and Whereas at the time said contract was

entered into it was not the intention or expectation of the parties thereto that road should be built under said contract unless the said Simeon G Reed & Co should be able to secure the aid of Eastern Capitalists which, after suitable efforts they were unable to do; and Whereas, on the 25th day of May 1869 at a meeting of the Directors of this Corporation a resolution was passed, with the assent of said Simeon G Reed & Co, annulling said contract and authorizing a settlement to be made with the said Simeon G Reed & Co for advances made &c; And Whereas, other proceedings were subsequently had in reference to the final settlement of matters arising out of said contract and other dealings between this corporation and the said Simeon G Reed & Co, and between this corporation and Simeon G Reed and his associates; and Whereas, doubts have arisen as to the regularity and legality of the action upon the part of the Directors in annulling said contract and as to the finality of said settlement; *Now Therefore*, in consideration of the premises, and for the purposes of removing all doubts, it is hereby

Resolved. That the contract hereinbefore referred to between this Corporation and the said Simeon G. Reed & Co in reference to building said Railroad, or any part of the same, is hereby annulled as of the date of May 25th 1869. And all settlements appearing upon the records of this corporation to have been heretofore made with the said Simeon G Reed & Co and with the said Simeon G. Reed and his associates are hereby released and forever discharged from all damages or claim

of damages arising out of any violation or alleged violation of said contract between this corporation and the said Simeon G. Reed & Co, and from all demands of every name and nature which this Corporation may have had, or might have had against him, them, or either or any of them, arising in any manner out of said Contract. On motion of Mr. Halsey, H. Thielsen was nominated as Chief Engineer of the Oregon Central Railroad Company, and he having received four votes was declared elected. On motion adjourned to April 10th 1871 at 12 M.

Attest.

SAML M SMITH

C. S. SILVER

Secretary Pro tempore.

President

Office Oregon Central Railroad Co

Portland Oregon April 10th 1871.

Pursuant to adjournment the Board met at the office of the Company at 12 M this day. Present, Mr. President, Directors Smith and Estes. The resignation of Director James M. Gilman, was read, and on motion was accepted. Mr. J. H. Mitchell was nominated to fill the vacancy, and having received three ballots was declared duly elected. Mr. Mitchell then appeared, qualified as a Director, and offered the following Resolutions.

Resolved. That Section 7 of the By Laws be amended so as to read as follows

"Section 7. There shall be elected annually seven Directors who shall hold their office one year and until

their successors are elected and qualified; and at the first meeting of any new Board of Directors they shall elect from their number a President and Vice President, and they shall appoint a Secretary and Chief Engineer who need not be Directors, all of which officers shall hold their offices for one year and until their successors are elected and qualified, unless removed sooner by the Board of Directors; and they shall each be entitled to such compensation for their services as may be allowed and agreed upon by the Board of Directors.” Resolved that Section 13 of the By Laws be amended so as to read as follows:

“*Section 13.* The annual meeting of the Stockholders shall be held on the (4th) Fourth Thursday of May in each year; and the first meeting of the newly elected Board of Directors shall be held immediately after the adjournment of the Stockholders meeting provided a majority of the Directors are present to qualify, otherwise they shall meet at the call of the President of the old Board”

Both of which Resolutions were unanimously adopted. The Board then adjourned to meet on Saturday April 17th at 12 M

Attest

SAML M. SMITH

Secretary pro tempore

C. S. SILVER

President

“State of Oregon)
)
County of Multnomah)

I, John H. Mitchell, being duly sworn say, that I will honestly and faithfully discharge the duties of a Director of the Oregon Central Railroad Company of Portland Oregon.

J. H. MITCHELL

Subscribed and sworn to before me this 10th day of April 1871

Witness my hand and official seal

GEO W. MURRAY

Notary Public, State of Oregon

(Notorial) (5 cts)

(Seal) (Rev)

() (Cancel)

(W M)

Office Oregon Central Railroad Co

Portland Oregon April 17th 1871.

Pursuant to adjournment the Board met at the Office of the Company this day at 12 M. Present, Mr. President and Directors Smith and Mitchell. On motion of Mr. Mitchell the following Resolution was read and unanimously adopted:

Resolved. That the line of the Oregon Central Railroad, as located by the survey and map of H. Thielsen, Chief Engineer of the Oregon Central Railroad Company and herewith presented, from a point in the City of Portland 1614 feet East and 4123 feet

North of the South West quarter of Section 34 in Township 1 North Range 1 East of Willamette Meridian to a point on the Yamhill river near McMinnville 1610 feet West and 1950 feet South of the North East corner of Section 14 of Town 4 South of Range 4 West of the same Meridian, a distance of 47 75-100 miles; Also, from a point of Junction near the town of Forest Grove 720 feet East and 483 feet North of the South West corner of Sec 32 Town 1 North Range 3 West of the same Meridian toward Astoria up and along the valley of Gale's and Beaver creeks to a point outside the public surveys of the United States one mile beyond and north of the summit dividing the Tualitin from the Nehalem valley, a distance of twenty miles from said Junction, be and the same is hereby adopted and confirmed as the definite location of the line of said Road and said surveys and map herewith presented are hereby adopted and approved. Mr. Smith then offered the following Resolution, which was adopted:

Resolved. That the transfer to this company by the Willamette Valley Railway Company, on this date, of the lands, grants, franchises and privileges granted to the Oregon Central Railroad Company by the Act of Congress Approved May 4th, 1870, to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville, be and the same is hereby accepted. The Board then adjourned subject to the call of the President.

Attest.

SAML M. SMITH

Secretary pro tempore

C. S. SILVER

President.

Office Oregon Central Railroad Company

Portland Oregon May 25th 1871.

(Stockholders Annual Meeting) 2½ o'clock P. M.
In pursuance of the By Laws of the Company and thirty days notice (continuous) in the Daily Bulletin (a copy of which notice appears in the margin) the Stockholders of the Oregon Central Railroad Company met at the office of the Company in Portland this day at two and a half P. M. The President of the Company C. S. Silvers in the chair, and on motion R. H. Towler was appointed Secretary pro temp.

Notice in Margin.

STOCKHOLDERS' MEETING.

The Stockholders of the Oregon Central Railroad Company of Portland, Oregon, are hereby notified to attend the Annual Meeting of the Company for the election of a New Board of Directors and such other business as may be properly brought before said meeting, to be held at the office of said Company, in the City of Portland, Oregon, between the hours of 10 o'clock A. M. and 2 o'clock P. M. of the twenty-fifth day of May next, 1871.

By order of the Board of Directors.

Attest:

SAML M. SMITH,
Sec'y pro tem.

C. S. SILVER,
President

Portland, Oregon, April 24, 1871.

The Secretary then reported the following list of Stockholders entitled to vote.

	No of shares
W. H. Halsey.....	48501
M. M. Melvin.....	5
Wm. T. Newby.....	1
W C Whitson.....	1
J N Belcher	1
B. F. McLench	1
J C Ainsworth.....	1
W D Hare.....	20
W G Scoggin	10
J T Fletcher.....	1
John S Griffin.....	6
C A Reynolds.....	4
J C Dobbins	20
L Patterson	9
Oliver Clay	2
D L Turpin.....	30
Edwin Constable	4
W W Catching.....	4
S H. Marsh.....	10
J. Wilke	1
Payton Wilks	2
Albert Simpson	1
Anderson Eanis	1
J Myer	10
Elkanah Walker	2

	No of shares
John J. Garrison	1
Francis A. Bailey.....	2
S. A. Holcomb.....	10
Henry Sewell	1
Wm. Mauzey	10
Philemon S. Field	5
Hy Buxton Jr	10
A C Brown	14
Jerome A Porter	4
D O. Quick	6
Wm E Smith	20
John T Scott	6
Alvarez Madison	8
Norman Martin	5
David McDonald	36
Stephen Blauk	4
Thomas Hart	20
Hyer Jackson	20
George H. Smith	8
C A Westfall	16
Henry B. Tucker	16
Jacob Halstead	6
John F. Lafferty.....	6
Chas McKay	1
W Balda	4
J R Boyce	2
Eliza Wolley (best)	29
H A Zachary	4

	No of shares
J. S. Brugger	20
W M Tompkins	2
C W Conklin and wife.....	40
Joseph Leonard	4
W. R. Barrett	11
Jas D Phillips	1
Robert Walker	8
Josia West	4
John Harrison	10
Joseph E. Sedlock	100
T D Humphreys	10
McKinney & Hinshaw	30
Almaran Hill	14
M C Coulter	3
David Lennox	2
Henry Victor	1
James Smith	1
Thomas B. Hoover	1
George Ebbett	18
A Tongue	2
Jacob Hoover	4
F J Hoover	1
Zina W Wood	10
Thomas Steward	8
T R Cornelius	5
R C Kinney	5
R Glissan	5
D C Lewis	5

	No of shares
C Bills	5
A B Halloc	5
Jas Johnson	20
A. C. Brown	26
S. H. Miller	1
B. R. Churchill	1
Kenyon Crandall	7
Ed Jackson	10
Ladd & Tilton (WSL)	5
C M Carter	5
F. Dekum	5
S Coffin	5
Jacob Kamm	5
A. H. Johnson	5
T J Carter	5
John M Breck	5
J. Myrick	5
J B Harker	5
J C Ainsworth	5
Jos Teal	5
S G Reed	5
R Jhudd	5
McCracken & Merrill	5
A P Ankeney	5
J W Cook	5
Labbie Brs.	5
Emil Lowenstein & Co.	5
Joseph S. Smith	5

	No of shares
W Lair Hill	10
G W Vaughn	5
David Monastes	5
John H Hayden	5
Walter Moffatt	5
E J Northrop & Co.....	5
Hiram Smith	5
Hannah Smith	5
J. A. Fisher	5
A Harker	5
Joseph Knott	10
Wiberg & Strowbridge	5
C A Burchardt	5
John Green	5
R R Thompson	5
Couch & Flanders	5
Estes & Steinson	5
Medorum Crawford	1
Wm Cree	5
J W Ladd	5
E Milwain	5
J. M. Johns	84
W T Newby	12
B E Stewart	2
D C Stewart	2
Thos Standley	26
Wm Ball	2
J B Newby	10

	No of shares
J Gaston	1
J H Mitchell	1
Geo W Weidler	1
Sam M Smith	1
J M Gilman	1
G S Silver	1
Ben Holliday	1
H W Scott	1

The roll of the Stockholders being called the following persons were present representing 48509 shares of Stock:

Medorum Crawford, representing	1 share
S M Smith	1 “
C S Silver	1 “
Thomas Cornelius	5 “
W L Halsey	48501 “

On motion of Mr. Smith a recess was taken until four and a quarter P M

Attest:

R. H. FOWLER,

C S SILVER

Secy-Pro Temp

President

Office of Oregon Central Railroad Co.,

Portland, Oregon May 25th, 1871

Annual Meeting of Stockholders, Continued.

In pursuance to motion of the Stockholders at a meeting held this day at two and a half P. M. they met

at the Company's Office at four and a quarter O'clock P. M. this day and proceeded to the election of a

Board of Directors

to serve the Corporation for the ensuing year. C. S. Silver in the chair and R. H. Towler Secy Pro. temp.

On motion of Mr. S. M. Smith, Medorum Crawford was appointed Teller of this election.

The roll of Stockholders was then called and the votes being cast by ballot, appeared by the count of the teller, counted in the presence of the meeting, to result as follows:

Whole number of shares present and voting 48510, of which number 48510 were cast for Ben Holladay, and 48510 shares were cast for W. L. Halsey, and 48510 shares were cast for Geo. W. Weidler, and 48510 shares were cast for J. H. Mitchell and 48510 shares were cast for Medorum Crawford, and 48510 shares were cast for H. W. Scott, and 48510 shares were cast for Thos. R. Cornelius.

No votes being cast for any other persons as Directors, and each one of said persons, having received a majority of all the shares of stock in the Company, said Ben Holladay, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum Crawford, H. W. Scott, and Thos. R. Cornelius, were declared by the President of the Company to be duly elected as Directors to serve this Company, for the next ensuing year; and thereupon signed and filed with the Secretary of the Com-

pany a Certificate of which the following is a copy,
State of Oregon)
)
County of Multnomah)

Portland, May 25th, 1871

I, C. S. Silver, President of the Oregon Central Railroad Company, do hereby certify, that at the annual meeting of the Stockholders of said company, for the purpose of electing a Board of Directors, this day held at the Company's Office in the City of Portland, the following persons to wit:

BEN HOLLADAY
W. L. HALSEY
GEO. W. WEIDLER
J. H. MITCHELL
MEDORUM CRAWFORD
H. W. SCOTT
THOS. R. CORNELIUS

having received a majority of all the votes cast at said election, and a majority of the shares of the Capital Stock of said Company, cast by such Stockholders, at such election, for Directors, they are hereby declared to be duly elected as Directors of the Oregon Central Railroad Company, for the next ensuing year.

C. S. SILVER

President, Oregon Central Railroad Company,

On motion the meeting then adjourned

Attest,

R. H. TOWLER,

Secy Pro temp.

C. S. SILVER,

Pres.

State of Oregon)
)
 County of Multnomah)

I, Ben Holladay being first duly sworn, say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company, of Portland, Oregon, for the term for which I have been elected, So help me God.

BEN HOLLADAY

Subscribed and sworn to before me this 25th day of May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State aforesaid.

Stamps 6 cents U. S.

Rev. Stamps canc'd

Geo. E. Coles

Notarial Seal

State of Oregon)
)
 County of Multnomah)

I, W. L. Halsey, being first duly sworn, say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

W. L. HALSEY

Subscribed and sworn to before me this 25th day of May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State aforesaid.

3 Stamps 2 cents each

6 stamps canc'd

Geo. E. Coles

Notarial Seal.

State of Oregon)
) ss.
County of Multnomah)

I, Geo. W. Weidler, being first duly sworn, say that I will faithfully and honestly discharge the duties of Director of the Oregon Central Railroad Company of Portland, Oregon, during the term for which I have been elected, So help me God.

GEO. W. WEIDLER

Subscribed and sworn to before me this 25th day of May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State aforesaid

3 stamps

2 cents each canc'd

Geo. E. Coles

Notarial Seal

State of Oregon)
) ss.
County of Multnomah)

I, J. H. Mitchell, being first duly sworn, say that I

will faithfully and honestly discharge the duties of
 Director of the Oregon Central Railroad Company of
 Portland, during the term for which I have been elected,
 So help me God.

J. H. MITCHELL

Sworn and subscribed to before me this 25th day
 of May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State afore-
 said.

6 U. S. stamps
 (Rev.) canc'd
 Geo. E. Cole's
 Notarial Seal

State of Oregon)
) ss.
 County of Multnomah)

I, H. W. Scott, being first duly sworn, say that
 I will faithfully and honestly discharge the duties of
 Director of the Oregon Central Railway Co., of Port-
 land, during the term for which I have been elected, So
 help me God.

H. W. SCOTT

Subscribed and sworn to before me this 25th day
 of May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State afore-
 said

6 U. S. Rev.
 Stamps canc'd
 Geo. E. Cole's
 Notarial Seal

State of Oregon)
) ss.
County of Multnomah)

I, Medorum Crawford, being first duly sworn, say that I will faithfully and honestly discharge the duties of Director of the Oregon Central Railroad Co., of Portland, Ore., during the term for which I have been elected, So help me God.

M. CRAWFORD

Subscribed and sworn to before me this 25th day of
May A. D. 1871

GEO. E. COLE

Notary Public in and for the County and State afore-
said.

6 cents U. S.

Stamps (Rev)

Canc'd

Geo. E. Cole's

Notarial Seal

Mem. This was sworn to and signed previously to
H. W. Scott's as above.

State of Oregon)
) ss.
County of Multnomah)

I, Thomas R. Cornelius, being first duly sworn, say that I will faithfully and honestly discharge the duties of Director of the Oregon Central Railway Company of Portland, Ore., during the term for which I have been elected, So help me God.

T. R. CORNELIUS

Subscribed and Sworn to before me this 25th day

of May 1871 A. D

GEO. E. COLE

Notary Public in and for the County and State aforesaid.

6 U. S.

Revenue

Stamps canc'd

Geo. E. Cole's

Notarial Seal

Office of the
Oregon Central Railroad Company,

Thursday May 25th., 1871

In accordance with the Bye Laws of this Company, the New Board of Directors met at half past Four O'clock P. M. and qualified as such Directors, by taking and subscribing the Oath of office as appears on record on the preceding pages of this book. Present, Menr. W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum Crawford, and Thos. R. Cornelius.

The board proceeded to organize by calling Mr. Halsey to the Chair.

On motion of Mr. J. H. Mitchell, seconded by Mr. Crawford, Ben Holladay was put in nomination for President, there being no opposition candidate, the vote was proceeded with, and Mr. Holladay having received the entire vote of the Directors present, was declared unanimously elected.

On motion of Mr. J. H. Mitchell, seconded by Mr.

Crawford, Wm. L. Halsey was put in nomination for Vice President, there being no opposition candidate, the vote was proceeded with, and Mr. Halsey having received the entire vote of the Directors present, was declared unanimously elected.

On motion of Mr. J. H. Mitchell, seconded by Mr. Crawford, R. H. Towler was put in nomination for Secretary, there being no opposition, the election was proceeded with, and R. H. Towler, having received the entire vote of the Directors present, was declared unanimously elected.

No business requiring the action of the board being presented, on motion of Mr. Crawford, the board adjourned, subject to the Call of the President,

Attest

R. H. TOWLER,

Secy.

W. L. HALSEY,

Vice President

Office of the
Oregon Central Railroad Company,

Portland, Oregon June 5th., 1871.

Pursuant to the Call of the President and written notice to each of the Directors, the board of Directors of this Company, met at the Company's office in Portland this day at 12:30 P. M.

Present Ben Holladay, President, W. L. Halsey, Geo. W. Weidler, Medorum Crawford, H. W. Scott and J. H. Mitchell.

On motion of Director Mitchell, seconded by Direc-

tor Scott, the following resolutions were unanimously adopted,

Resolved:

That the transfer and conveyance made to this company on the seventeenth day of April A. D. 1871, by the Willamette Valley Railway Co., of Portland, Oregon, of all the rights, franchises, lands, privileges and property, granted and intended to be granted to this Company, by the Act of Congress, approved May 4th. A. D. One thousand eight hundred and seventy, entitled "An Act granting lands to aid in the construction of a Rail Road and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon" and which was in August A. D. 1870 transferred to this Company to said "Willamette Valley Railway Company," be and the same are hereby accepted and this Company does hereby give its full assent to such reconveyance and to all the provisions of said Act of Congress,

Resolved:

That the Secretary of this Company be and is hereby authorized and instructed to forward forthwith to the office of the Secretary of the Interior at Washington D. C. a copy of these resolutions duly certified under the Seal of this Corporation.

On motion of Director Mitchell it was ordered that the Deed of Transfer be spread upon the records of this Company.

BEN HOLLADAY,

President

Attested

R. H. TOWLER,

Secretary

50 cents Internal

Revenue Stamps,

Ben Holladay, Prest.

M. Crawford, Secy

April 17, 1871.

COPY OF DEED

This Indenture made at Portland, Multnomah County, State of Oregon, this 17th day of April, Anno Domini, one thousand eight hundred and seventy one (1871) between the Willamette Valley Railway Company, Incorporated and organized under the General Incorporation laws of the State of Oregon, party of the First part, and the Oregon Central Railroad Company of Portland, Oregon, Incorporated at Portland, Oregon, under the General Incorporation Laws of the State of Oregon, party of the Second part,

Whereas, the Board of Directors of the Willamette Valley Railway Company of Portland, Oregon, did at a meeting of such Board, duly called and held at the office of such Company, in the City of Portland, Multnomah County, and State of Oregon on this 17th day of April A. D. One thousand eight hundred and seventy one (1871) unanimously adopt the following resolution to wit:

“Whereas the Oregon Central Railroad Company did on the 15th of August A. D. 1870, by its Board

of Directors at a meeting thereof duly called sell, assign, transfer, set over and convey for certain considerations, therein set forth, to the Willamette Valley Railway Co., of Portland, Oregon, all the right, title, interest, and claim vested and contingent, which the said Oregon Central Railroad Company then had and possessed or to which it was entitled, in or to the franchises, privileges, grants and lands granted and proposed to be granted to said Oregon Central Railroad Company, their successors and assigns by the Act of Congress which passed the Senate of the United States February 20th 1870, entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon" and did direct the execution and delivery of a deed of conveyance therefore by the President and Secretary thereof, which deed of conveyance was in pursuance of such directions duly executed and delivered to the Willamette Valley Railway Co. on said 15th day of August A D 1870 and whereas some question has been made in the Department of the Interior at Washington City in relation to the power of said Oregon Central Railroad Co. to make such assignment transfer and conveyance and the Attorney General of the United States, Mr. Ackerman has given an opinion wherein he denies such power, and whereas a controversy in the departments and Courts, whatever might be the result, would lead to complications and embarrassments, and in a great measure depreciate its value of said grant, and retard the construction of the road; and

whereas the said Oregon Central Railroad Company, to whom such grant was originally made is now in a condition to proceed with said enterprise, and whereas the same persons who own and control over two thirds of all the stock in this Company, also own and hold over two thirds of all the stock in Oregon Central Railroad Company; Therefore in consideration of the premises, and of the consent of the Stockholders of this Company, holding and owning over two thirds of all the stock in this Company, now here present and consenting thereto, and of the sum of one dollar to this company paid, the receipt whereof is hereby acknowledged, This Company, the Willamette Valley Railway Co. of Portland, Oregon, does hereby sell, assign, transfer, set over and reconvey unto the said Oregon Central Railroad Company of Portland, the franchises, privileges, benefits, grants, and lands, granted or intended to be granted, to said Oregon Central Railroad Company, by the said Act of Congress, passed the Senate February 20th., 1870 and approved May 4th 1870, entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon, and all right, title, interest and claim present and contingent, which this Company has therein by virtue of the assignment and deed of conveyance aforesaid to this Company, of date August 15th 1870, and the President and Secretary of this Company are hereby directed to make, execute and deliver to said Oregon Central Railroad Company a deed of conveyance in the name of this Company and

under its corporate Seal, for all such franchises, privileges, benefits, grants, lands, etcetera, as aforesaid,

Resolved further that the Secretary of this Company forward forthwith to the office of the Secretary of the Interior of the United States at Washington City, a copy of these resolutions duly certified under the Corporate Seal of this Company.

Therefore the said Willamette Valley Railroad Company, party of the first part herein, in and for the consideration and in pursuance of the premises aforesaid, and in and for the further consideration of one dollar to them in hand paid by the party of the second part, at and before its ensealing and delivery of these presents and the receipt whereof is hereby acknowledged, have granted, bargained, sold, transferred, set over and conveyed, and by these presents they do grant, bargain sell, transfer, set over and convey unto the said: The Oregon Central Railroad Company of Portland, Oregon, party of the second part herein—their successors and assigns absolutely and forever, all the franchises, privileges, grants, and lands granted, and intended to be granted to the Oregon Central Railroad Company, their successors and assigns by the Act of Congress, approved May 4th (Fourth) A. D. One thousand eight hundred and seventy entitled “An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon.” Also all its right, title, interest and claim vested and contingent which the said “The Willamette Valley Railway Com-

pany, party of the first part, herein now has, or owns, of in or to the franchises privileges, rights of way and lands granted or intended to be granted by said Act of Congress, herein before referred to by the title and the date of its approval by the President.

Together with all and singular, the privileges and appurtenances thereto belonging—and all the estate of the party of the first therein, To have and to hold the said described property franchises, lands, privileges, rights of way and appurtenances unto the said Oregon Central Railroad Company, party of the second part herein, their successors and assigns, absolutely and forever, for the uses and purposes in said Act of Congress specified.

In testimony whereof the said Willamette Valley Railway Company, party of the first part by Ben Holladay its President, and Medorum Crawford its Secretary has caused its corporate Seal to be attached this 17th day of April A. D. 1871, and witness also the hands and seals of the said President and Secretary, and the name of the party of the first part,

THE WILLAMETTE VALLEY RAILWAY
COMPANY

(Signed) By Ben Holladay
President

THE WILLAMETTE VALLEY RAILWAY
COMPANY

(Signed) By M. Crawford
Secretary

Signed, Sealed
and delivered
in our presence

Signed J. H. Mitchell

“ A. M. Loryea

(Willamette Valley Rail-)

(way Co'y Seal)

State of Oregon)
) ss.

County of Multnomah)

Be it remembered that on this 17th day of April A. D. 1871, before me the undersigned a Notary Public in and for Multnomah County, State of Oregon, personally appeared Ben Holladay personally known to me to be the President of the Willamette Valley Railway Company, and the person who as such president, executed the foregoing conveyance, also at the same time personally came M. Crawford to me personally known as the person, named in and who as Secretary of the Willamette Valley Railway Company, executed the within conveyance, and said persons, Ben Holladay and M. Crawford, severally acknowledged to me that they executed the foregoing Indenture, as such President and Secretary of such Willamette Valley Railway Company, freely and voluntarily, and the said M. Crawford, being duly sworn, did depose and say, that he has charge of and knows the Incorporate Seal of said Willamette Valley Railway Company, and that the Seal attached to the foregoing Indenture is such corporate seal and that he as Secretary attached the same thereto.

Witness my hand and Notarial Seal

(Signed) A. M. LORYEA,

(Notarial Seal)

Notary Public for Multnomah
County, State of Oregon.

State of Oregon)
) ss
Multnomah County)

I, C. W. Parrish, County Clerk in and for said County, do hereby certify that the foregoing instruments of writing were received for record April 20th 1871 and recorded on page 42 to 45 of Book O, of Deeds of said County,

Witness my hand and seal of office affixed.

County Court,

(Signed) C. W. PARISH,

Multnomah County

Clerk

Seal

By L. DURHAM,

State of Oregon

Deputy

Office of the Oregon Central R. R. Co.

Portland, Oregon June 13, 1871

Pursuant to call from the President, the Board of Directors of this Company met at their office this day at one P. M.—Present: Director W. L. Halsey, G. W. Weidler, J. H. Mitchell and H. W. Scott, Ben Holladay President in the chair:—

Director Mitchell offered the following resolutions, which upon motion of Director Scott seconded by Director Weidler, were unanimously adopted:

Resolved: That A. de Laski of London, England, be and hereby is authorized and empowered to negotitae

and make sales of the bonds of this Company, and in its name, to such person or persons, and upon such terms, as he may deem for the best interests of this Company, subject only to such restrictions, as may be imposed by the President of this Company, and the President and Secretary of this Company, are hereby authorized to make and execute and deliver in the name of this Company and for it, to said A. DeLaski a full power of Attorney, authorizing him to negotiate and sell such bonds, subject only to such restrictions by this Company, as the President may deem for the best interests thereof, to be inserted in such power of Attorney,

Resolved: That Wm. Norris of the City San Francisco, State of California be, and he is hereby constituted the General Agent and attorney in fact of this Company, with full power to transact all its financial and other business matters, in any part of the United States, with full power and authority to negotiate and sell any and all of the bonds of this Company to such persons and for such price, and upon such terms as he may deem proper, and for the best interests of this Company and also to borrow money thereon, giving the same as Collateral, and generally to act as Financial Agent and Attorney in fact, of this Company, with full powers in the premises, and the President and Secretary of this Company are hereby authorized and instructed to make, execute, and deliver to said Wm. Norris, in the name of this Company, and under its Corporate Seal, a full power of Attorney, constituting him such attorney in fact, with full powers aforesaid.

On motion the board adjourned then, subject to call by the President.

R. H. TOWLER,	BEN HOLLADAY,
Secretary	President

Copy of Power of Attorney to Alexander de Laski,
from Oregon Central Railroad Co.

Whereas the Board of Directors of the Oregon Central Railroad Company of Portland, Oregon, did on the 13th day of June, Anno Domini, One thousand, Eight Hundred and Seventy One (1871) at their office, and the office of said Company, in the City of Portland, in Multnomah County, State of Oregon, at a meeting of such board, duly called and legally held, duly and unanimously adopt the following resolution:—

That is to say:

Resolved: That Alexander de Laski of London, England, be, and he is hereby authorized and empowered to negotiate and sell to such person or persons, and in such place or places, and upon such terms, and for such price as he may deem for the best interests of this Company, any and all bonds of this Company, now issued or which may at any time hereafter be issued by this Company.

And the said de Laski is hereby appointed the Agent and Attorney in fact of this Company for such purpose, And the President and Secretary of this Company be and they are hereby authorized, and directed to make, execute, and deliver to said Alexander de Laski in the name of this Company and under its Corporate Seal,

and on its behalf a power of attorney giving and granting unto said de Laski full power as the attorney in fact of this Company, to make such negotiations and sales of the bonds of this Company as in this Resolution specified.

Therefore, Know all men by these presents, that in pursuance of the resolution aforesaid

The Oregon Central Railroad Company, a corporation duly incorporated and organized at Portland, in the State of Oregon in the United States of America, under and by virtue of the General Incorporation Laws of the State of Oregon, have made, constituted and appointed, and by these presents they do make, constitute and appoint Alexander de Laski of London, England, as their true and lawful Attorney in fact for such Oregon Central Railway Company Corporation as aforesaid, and its name and for its use to negotiate and sell to such person or persons, firms or corporations, at such time or times, and at such place or places on this Globe, and for such price and for such terms, as he may deem for the best interests of this said Oregon Central Railroad Company, any and all bonds of this Company now issued or which may at any time hereafter be issued by such Oregon Central Railroad Company. And to receive and receipt for all moneys arising from such negotiations or sales in the name of this Company, the said Oregon Central Railroad Company and for its use—

Hereby ratifying and confirming all that our said

attorney in fact, may lawfully do in the Premises

Witness the hands of Ben Holladay President and R. H. Towler, Secretary, of said Oregon Central Railroad Company hereto attached, and witness also the said Oregon Central Railroad Company by its Corporate Seal hereunto attached by said Ben Holladay its President and R. H. Towler its Secretary, at the office of the said Oregon Central Railroad Company in Portland, Oregon, this Twentieth day of June A. D. One thousand eight hundred and seventy one.

Signed, Sealed	Oregon Central Railroad Company
and delivered	By Ben Holladay, President
in presence of	Oregon Central Railroad Company
Hall McAllister	By R. H. Towler, Secretary
Geo. W. Weidler	

(SEAL)

Copy of Power of Attorney to William Norris from Oregon Central Railroad Company

Whereas the Board of Directors of the Oregon Central Railway Company of Portland, Oregon, did on the 13th June A. D. 1871, at a meeting of such board, duly called and legally held, at the office of said Company, in Portland, Oregon, duly and legally adopt a resolution, of which the following is a copy:

Resolved: That William Norris of the City of San Francisco, and State of California, be and he is hereby constituted the General Agent and Attorney in fact of this Company, with full power to transact

all its financial and other business matters in any part of the United States, with full power and authority to negotiate and sell any and all of the bonds of this Company to such persons and for such price and upon such terms as he may deem proper, and for the best interests of this Company. And also to borrow money thereon, giving the same as collateral, and generally to act as the financial Agent and Attorney in fact of this Company, with full powers in the premises, and the President and Secretary of this Company are hereby authorized and instructed to make, execute, and deliver to said William Norris, in the name of this Company, and under its corporate Seal a full power of Attorney, constituting him such Attorney in fact with full power aforesaid,

Therefore in pursuance of the foregoing resolutions, the Oregon Central Railroad Company, a corporation duly incorporated in Portland, Oregon, under the general incorporation laws of the State of Oregon, has made, constituted and appointed, and by these presents does make, constitute and appoint William Norris of the City of San Francisco and State of California, its true and lawful Attorney in fact, for it the said Oregon Central Railroad Company, aforesaid and for its use and in its name to negotiate and sell to any person or persons and upon such terms and for such price, any of the Bonds of this the said Oregon Central Railroad Company, and to borrow money thereon, giving the said Bonds as Collateral security therefore, and generally to act as financial Agent and Attorney in fact of the

said Oregon Central Railroad Company at any point of the United States, and in any and all of its business transactions, hereby giving and granting unto him the said William Norris, full power and authority in the premises, to act as the general Agent and Attorney in fact of the said Oregon Central Railroad and in such manner as he, the said William Norris may deem for the best interests of said Company.

Hereby notifying and confirming all that the said Attorney in fact may lawfully do in the premises.

In testimony whereof, the Oregon Central Railroad Company corporation aforesaid by Ben Holladay its President and R. H. Towler its Secretary has hereunto caused its corporate name and seal to be attached, and witness also the signature of said Ben Holladay, President, and R. H. Towler, Secretary, at the office of the Company in Portland, Oregon, this first day of July A. D. One thousand eight hundred and seventy one.

In Presence of Oregon Central Railroad Co.

Andrew J. Moses By Ben Holladay, President

Alex B. Mccready Oregon Central Railroad Co.

(SEAL) By R. H. Towler, Secretary

Office of the

Oregon Central Railroad Company

Portland, Oregon, July 8, 1871

The Board of Directors of this Company met at their office in the City of Portland this day at eleven o'clock A. M. in pursuance to call by the President

Present, Ben Holladay, Prest, in the Chair, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum Crawford, H. W. Scott.

The following resolution was offered by Director Mitchell and unanimously adopted:—

Resolved: That the Secretary of this Company be and he is hereby instructed to cancel all bonds of this Company heretofore issued, by endorsing on the same in ink or print the following:

Cancelled this ——day of——1871 by order of the board of Directors passed July 8th 1871.

Secretary O. C. R. R. Co.

All said bonds having been redeemed by this Company.

Upon motion the Board then adjourned.

Attest:

R. H. TOWLER,	BEN HOLLADAY,
Secy.	President.

Office of the
Oregon Central Railroad Company,

Portland, Oregon July 11, 1871

Pursuant to the call by the President, by written notice to each of the Directors, the Board of Directors of this Company met at the Company's office this day at 11 o'clock A. M.

Present: Ben Holladay, Prest. in the Chair, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum

Crawford, H. B. Scott.

Director Weidler offered the following resolution, which was unanimously adopted:

Resolved: First that the sum of four millions three hundred and ninety five thousand dollars is necessary for the purpose of constructing and building the railroad of this Company now in process of construction in the State of Oregon, from Portland to Astoria, and from a suitable point of junction near Forest Grove, to the Yamhill River, near McMinnville, in the State of Oregon, a distance in all of one hundred and forty six and one half ($146\frac{1}{2}$) miles.

Resolved: That said four millions three hundred and ninety five thousand dollars be borrowed on the credit of the Company, and that construction bonds of the Company to the number of (5860) five thousand eight hundred and sixty, (2930) two thousand nine hundred and thirty thereof of the denomination of \$1000 each and (2930) two thousand nine hundred and thirty thereof of the denomination of \$500 each be issued and disposed of therefor, to wit:

\$30,000 per mile on each mile of said railroad constructed and to be constructed from Portland to Astoria and from a suitable point of junction at or near Forest Grove, to the Yamhill River, at or near McMinnville, in Oregon.

Resolved: That said bonds be prepared and issued by the President and Secretary of the Company and be

signed by them and sealed with the Corporate Seal of this Company and dated on the 15th day July 1871, and to be payable to the holder thereof in gold coin of the United States of America, twenty years after the date thereof, to wit: on the

Fifteenth day of July 1891,

with interest in like gold coin at the rate of seven per cent per annum, payable semi-annually on the fifteenth days of January and July of each year after the year 1871, on the presentation and surrender of the dividend or interest warrants to be annexed to said bonds, and each of them, both principal and interest, to be payable in the City of New York, State of New York. That said bonds be numbered from one to five thousand eight hundred and sixty, both inclusive, commencing with those of denominations of \$1,000, and be in the following form:

No. \$.....
 United States of America, State of Oregon
 Oregon Central Railroad Company
 Incorporated November 21st, 1866
 First Mortgage Construction Bonds.

Know all men by these presents; That the Oregon Central Railroad Company, a Body Corporate, created under and pursuant to the laws of the State of Oregon, hereby acknowledges itself indebted and bound to the holder hereof, in the sum of one thousand dollars, gold coin, of the United States of America, which sum, the Oregon Central Railroad Company hereby promises to

pay at the Banking House of Meur, Dabney Morgan & Company in the City of New York, State of New York, to the said holder, on the fifteenth day of July A. D. 1891, with interest from and after July fifteenth A. D. 1871 at the rate of seven per Centum per annum, payable semi-annually at the said Banking House of Meur, Dabney Morgan & Co. in the said city of New York on the fifteenth days of January and July of each year after July fifteenth, 1871 on presentation and surrender of the annexed dividend and interest warrants.

This bond is one of a series of twenty nine hundred and thirty bonds of one thousand dollars each, numbered from one to twenty nine hundred and thirty both inclusive, and of twenty nine hundred and thirty bonds of five hundred dollars each, numbered from twenty nine hundred and thirty one, to five thousand eight hundred and sixty, both inclusive, and amounting in the aggregate to four millions three hundred and ninety five thousand dollars, and which have been made and executed by said Oregon Central Railroad Company, under express authority granted by Acts of the Legislature of the State of Oregon, and also by an act of the Congress of the United States of America, approved May 4th in the year of our Lord, one thousand eight hundred and seventy, and entitled

“An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon” and for the purposes authorized by and specified in said acts, and each of them, and as security for the payment to

the holders of said issue of five thousand eight hundred and sixty bonds, with interest to grow due thereon, said Oregon Central Railroad Company has duly executed acknowledged, and delivered, under the authority of said several acts, and of resolutions unanimously passed and adopted by its Board of Directors to Milton S. Latham and Faxon D. Atherton as Trustees, a mortgage or deed of trust, bearing even date herewith, and whereby all the real and personal property, rolling stock road, depots, stations, side tracks, woodyards, franchises and effects now owned or acquired or hereafter to be owned or acquired by it are mortgaged and conveyed to the said Trustees and the survivors of them as by reference to said mortgage or deed of trust, or the record thereof will more fully appear, and to which, and to all the terms and provisions thereof, reference is hereby specially made.

And as a further security for the payment to the holders of said issue of said five thousand, eight hundred and sixty bonds with interest to grow due thereon, the said Oregon Central Railroad Company, has in the manner, and upon the terms and conditions specified in the said mortgage or deed of trust irrevocably appropriated, and set apart all the net proceeds of the sales of the lands granted to aid in the construction of the railroad and telegraph line of the said Oregon Central Railroad Company from Portland to Astoria and McMinnville, in the State of Oregon, described and mentioned in the Act of Congress of the United States of America, approved May 4th, 1870, and entitled,

“An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon” for the creation and maintenance of a sinking fund, to be kept invested in the bonds of the United States, or other safe and more productive securities for the purchase from time to time, and the redemption at maturity of all said bonds, both principal and interest, in the mode and manner specified in said mortgage or deed of trust, and to which reference is hereby made as a part hereof.

In witness whereof, the said Oregon Central Railroad Company, has caused this bond to be signed by its President, and attested by its Secretary, and its Corporate Seal to be hereunto affixed, at its office in the City of Portland, in the County of Multnomah and State of Oregon, under the express authority of resolutions of its Board of Directors, this fifteenth day of July in the year of our Lord one thousand, eight hundred and seventy-one.

..... President
..... Secretary

This is to certify that the above bond is one of Five thousand, eight hundred and sixty bonds, which are embraced in the mortgage or deed of trust, bearing even date herewith, made and executed by the Oregon Central Railroad Company, whereby all its real and personal property, rolling stock, equipment, road, depots, stations, side tracks, wood yards, franchises and effects, acquired and to be acquired and also all the lands granted

to said Oregon Central Railroad Company by the Act of Congress of the United States of America, approved May 4th, 1870, and entitled an "act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon" are mortgaged and conveyed to us as trustees, as security for the payment of all said bonds, and which mortgage or deed of trust, has been recorded in the several counties of Oregon, through which the railroad of said Company runs, and constitutes the first lien or incumbrance upon the property therein described.

.....) Trustees
)

RESOLVED: That the coupons annexed to said bonds be in the following form:

\$.....

The Oregon Central Railroad Company will pay to the holders hereof.....in United States Gold Coin, at the banking house of Dabney, Morgan and Company, in the City of New York.....
on the fifteenth day of.....
 18.....being semi-annual interest on Bond No.

.....Secretary

RESOLVED: That to secure the payments of said bonds, and the interest thereon, the President and Secretary, execute and deliver, in the name of the Company, and on its behalf, and as and for its act, a first mortgage or deed of trust on the said Railroad of this Company,

now constructed, or which may be hereafter constructed from Portland to Astoria, and from a suitable point of Junction at or near Forest Grove to the Yamhill river at or near McMinnville in Oregon, and all the property and franchises connected with, or appertaining to, the said Railroad now owned or held or which hereafter may be owned or held by this Company as aforesaid.

That Milton S. Latham and Faxon D. Atherton of the City and County of San Francisco, State of California, be named in the said mortgage or deed of trust, as mortgagees and trustees for the holders of said bonds and coupons thereto annexed, and that said mortgage or deed of trust be delivered to them, they having consented to act as such mortgagees and trustees, and being hereby selected for such purposes, and that said mortgage be sealed with the corporate seal of the Company, and be in the words and figures following, that is to say:

THIS INDENTURE,

made this fifteenth day of July, in the year of our Lord, One thousand, eight hundred and seventy-one, between

**THE OREGON CENTRAL RAILROAD
COMPANY,**

a Body Corporate, created by and under the Acts of the Legislature of the State of Oregon, in that behalf made and provided party of the first part, and

**MILTON S. LATHAM, AND FAXON D.
ATHERTON**

of the City and County of San Francisco, State of

California, parties of the second part

WITNESSETH: Whereas, the said party of the first part is expressly authorized and empowered in and by the Acts of the Legislature of the State of Oregon, and the Act of the Congress of the United States, approved May 4th, 1870, and entitled,

“An Act granting lands to aid in the construction of Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon,” to borrow money for the object and purposes in said Acts and each of them specified, and for such authorized objects and purposes, said party of the first part is desirous of borrowing a sum not to exceed Four millions, three hundred and ninety-five thousand dollars, and of securing the payment of its Corporate Bonds or Obligations issued or negotiated therefor, by a mortgage or deed of trust to said parties of the Second part as trustees as hereinafter set forth and provided,

And whereas, under and pursuant to the lawful authority conferred by said several Acts of the Legislature of the State of Oregon, and of the Congress of the United States aforesaid the Board of Directors of the said party of the first part have unanimously resolved in substance and legal effect that said “Oregon Central Railroad Company” make, execute, issue and deliver under its Corporate Seal, its Corporate Bonds, bearing even date herewith, severally, payable to the holder thereof, at the Banking House of Meur, Dabney, Morgan & Co., in the City of New York, State of New York, on

the fifteenth day of July 1891, with interest from and after July 15th, 1871, at the rate of Seven per Centum per Annum, payable at the same Bank semi-annually, principal and interest payable in Gold Coin as follows—that is to say:

That twenty-nine hundred and thirty (2930) of said bonds be made or issued for the sum of one thousand dollars each, and that twenty-nine hundred and thirty (2930) of said bonds be made or issued for five hundred dollars each, in all five thousand eight hundred and sixty (5860) bonds, in the aggregate, amounting to Four Millions Three Hundred and Ninety Five Thousand Dollars, and no more, and that for the purpose of a more specific indentification thereof, said five thousand eight hundred and sixty (5860) bonds be numbered in a consecutive series from one to five thousand eight hundred and sixty, both inclusive, commencing with those of denomination one thousand dollars, and numbering them from Number One to two thousand nine hundred and thirty (2930) both inclusive, secondly, with those of the denomination of five hundred dollars each, and numbering them respectively from number two thousand and nine hundred and thirty-one, to number five thousand eight hundred and sixty (5860) and that upon the face of each bond be printed or engraved, a certificate signed by the parties of the second part here to, to the effect that such bond is one of the Five thousand eight hundred and sixty bonds intended to be secured by these presents,

And whereas said Board of Directors have further

unanimously resolved under and pursuant to lawful authority conferred upon said party of the first part, by the Acts aforesaid, in substance and legal effect that the President and Secretary of said party of the first part, execute and acknowledge in its name, and in its behalf, and under its Corporate Seal, and deliver to said parties of the Second part hereto, a mortgage or deed of trust, conveying, assigning, and transferring to them in trust, all its corporate, real and personal property, road, depots, stations, side tracks, woodyards, franchises and effects, as security for the payment of said (5860) five thousand eight hundred and sixty bonds, and the interest to grow due thereon, and that such mortgage or deed of Trust should contain all and singular the covenants, provisos, and conditions hereinafter set forth, and that said mortgage and deed of trust, and the five thousand eight hundred and sixty bonds, thereby secured be severally dated the 15th day of July, one thousand eight hundred and seventy one.

And whereas, the Congress of the United States of America did by an Act approved May 4th in the year of our Lord, one thousand eight hundred and seventy, and entitled, "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon" grant to the Oregon Central Railroad Company and to their successors and assigns, the right of way through the public lands of the width of one hundred feet on each side of said railroad, and the rights to take from the adjacent public lands the materials for constructing said

road, also necessary lands for depot, stations, side-tracks, and other needful uses in operating the road, not exceeding (40) forty acres in any one place, and also each alternate section of the Public lands, not mineral excepting Coal and Iron lands, designated by the odd numbers nearest said road to the amount of ten such alternate sections per mile on each side thereof, not otherwise disposed of, or reserved, or held by valid pre-emption, or homestead right, at the time of the passage of said act, and in case the granting of ten full sections per mile, could not be found on each side of said Road, within said limits of twenty miles other lands could be selected under the directions of the Secretary of the Interior, on either side of any part of said road, nearest to, and not more than twenty five miles from the track of said road, to make up such deficiency.

And whereas, the said "Oregon Central Railroad Company" party of the first part hereto, in and by the terms of said Act of Congress of the United States of America, approved May 4th 1870 is required to appropriate and set apart by mortgage or deed of trust to two or more trustees, all the nett proceeds of the sales of the said granted lands as a sinking fund to be kept invested in the Bonds of the United States or other safe and more productive securities, for the purchase from time to time, and the redemption at maturity of the first mortgage Construction Bonds of the Company, on the road, depots, stations, side tracks and woodyards, not exceeding thirty thousand dollars a mile of the Railroad, payable in Gold Coin, not longer than thirty years

from date, with interest payable semi annually in coin, not exceeding the rate of seven per Centum per annum —no part of the principal or interest of said fund to be applied to any other use, until all said bonds shall have been purchased or redeemed or cancelled, and each of the first mortgage Construction Bonds to bear the Certificate of the trustees setting forth the manner in which the same is secured, and its payments provided for.

NOW. THEREFORE, THIS INDENTURE WITNESSETH: That the said Oregon Central Railroad Company, the party of the first part hereto, under, pursuant to and by virtue of the express power, and authority conferred upon, and vested in it, by said several Acts of the Legislature of the State of Oregon, and of the Congress of the United States of America aforesaid, and under and pursuant to Resolutions duly passed and adopted by its Board of Directors and which are duly entered upon the official minutes of said board, and for and in consideration of the foregoing premises, and especially for the purpose, and with the intent of better and more effectually securing the payments of said five thousand eight hundred and sixty bonds with the interest due and to grow due thereon, and for and in consideration of one dollar, and other moneys, lawful money of the United States of America, by the said parties of the second part hereto in hand fully and truly paid to said party of the first part hereto, before the ensealing and delivering of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, assigned, transferred and set over, en-

feoffed, conveyed and confirmed, and by these presents, doth grant, bargain, sell, assign, transfer, and set over, enfeoff, convey and confirm to the said Milton S. Latham and Faxon D. Atherton, the said parties of the second part, as Trustees and in trust, and to the survivor of them and to their or his successors or successor, all and singular the Railroad of said party of the first part heretofore constructed, or hereafter to be constructed from Portland to Astoria, and from a suitable point of junction near Forest Grove to the Yamhill river near McMinnville, in the state of Oregon, in all a distance of one hundred and forty six and one half miles, thirty thousand dollars of said bonds being issued to each mile thereof, together with all its lands, tenements, and hereditaments acquired and appropriated under and pursuant to the provisions of the Act of Congress of the United States of America, approved May 4th 1870, and entitled "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon and also its depots, engine houses, car houses station houses, warehouses, machine shops, workshops, superstructures, erections and fixtures, and also all and singular the franchises, rights and privileges now owned, possessed or acquired, or which shall hereafter be owned, possessed, or acquired by said party of the first part, and all lands, tenements, hereditaments and real estate acquired and appropriated wheresoever and whatsoever, or now owned by said party of the first part, or which shall hereafter be owned by it, and also, all and singular, the locomo-

tives, tenders, passenger cars, freight cars, and all other cars, carriages, tools, machinery and equipments for said Railroad, and now owned, or which shall hereafter be owned or acquired by said party of the first part, and also all goods and chattels now owned, or which shall hereafter be owned by said party of the first part, and in any way relating, or pertaining or belonging to, or connected with said Railroad or running or operating the same, together with all rents, issues, income, profits, moneys, rights, benefits, and advantages derived, or to be derived, had or received therefrom by said party of the first part in any way whatsoever.

To have and to hold, all and singular the premises, rights, franchises, property real and personal, hereinbefore, and hereby assigned, mortgaged, pledged and conveyed, or intended so to be and every part and parcel thereof, with all the appurtenances unto the same belonging, or in any wise appertaining unto them, the said Milton S. Latham and Faxon D. Atherton the said parties of the second part hereto, and to the survivor of them, and to their, and to his successors, and successor, and to their and his assigns in trust for the person or persons, firm or firms, bodies politic or corporate, who have heretofore, or who shall have hereafter at any time become the purchasers or holders or owners of any or either of said five thousand eight hundred and sixty bonds, amounting in the aggregate to four millions three hundred and ninety five thousand dollars, to wit: \$30,000 per mile on said Railroad and no more, subject to the terms, provisions and stipulations in said Five

Thousand eight hundred and sixty bonds contained and subject also to the Provisions of the Act of Congress of the United States of America, affecting or relating to, or binding on the party of the first part, and also subject to the possession and management of said Railroad and property of said party of the first part, and its successors or assigns, so long as no default shall be made in the payment of either the interest or principal of said Five Thousand eight hundred and sixty bonds, or in or to either of them, and so long as the party of the first part shall well and truly observe, keep and perform all and singular, the covenants, agreements, conditions and stipulations in said Five Thousand eight hundred and sixty bonds, and in this Indenture contained and set forth, and which are to be observed, kept and performed, by, and on the part of the said party of the first part,

And the "Oregon Central Railroad Company" the party of the first part, hath covenanted and agreed, and by these presents doth, for itself, its successors and assigns covenant and agree with the parties of the second part; hereto, and the survivor and survivors of them and their, and his successors and successor, in manner and form following, that is to say:

First, That said "Oregon Central Railroad Company," the party of the first part, and its successors, shall and will pay or cause to be paid all taxes, charges, rates, levies and assessments imposed, assessed or levied, or which may hereafter be imposed, assessed, or levied upon the premises, franchises and property hereby mortgaged,

conveyed, and assigned, or intended so to be, and shall and will at its own proper cost, expense and charges, do or cause to be done, all acts and things necessary and proper to be done or performed, in order to preserve and keep valid and intact the lien or incumbrance upon all and singular the aforesaid premises, property and franchises hereby created, or intended so to be, And further that the lien or incumbrance created by the execution and delivery of this Indenture constitutes and is in fact the first valid lien and incumbrance on the premises, property and franchises therein described.

Second, That said "Oregon Central Railroad Company" the party of the first part, and its successors shall and will at any time or times hereafter, and from time to time, execute, acknowledge, and deliver, under its corporate Seal, to the said parties of the second part, and the survivors or survivor of them and their, or his successors or successor, such other and further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing, and shall and will do and perform all such further or other acts or things as shall or may be proper, or necessary, or as their or his counsel, learned in law, shall deem necessary, proper or expedient for the better or more effectually securing the payment of said Five Thousand, eight hundred and sixty bonds, and the interest due or to grow due thereon, or for carrying into effect the true intent, design, objects and purposes of these presents, or making, preserving, continuing and keeping valid and effectual the lien and incumbrance created or intended to be created by the

execution, delivery, and recording of this Indenture, upon all the property, real and personal, rolling stock, equipments, franchises, and effects and especially the lands referred to in and by said Act of Congress, approved May 4th 1870 now owned, possessed or acquired, or which shall hereafter be owned, possessed or acquired, by said party of the first part.

Thirdly, And for the purpose of fully and more effectually securing the payment of the said Five thousand eight hundred and sixty bonds together with the interest due, or to grow due thereon, the said "Oregon Central Railroad Company" the party of the first part hereto for itself and its successors, hath pledged and hereby does irrevocably pledge, for the purposes and objects hereinbefore specified, to and with the said parties of the second part, and the survivors and survivor of them, their and his successors and successor, all and singular the net proceeds of the sales of the lands granted to the party of the first part, by the Act of Congress approved May 4th, 1870 hereinbefore mentioned, as a sinking fund, to be kept invested by the parties, of the second part, in the Bonds of the United States, or other safe and more productive securities, for the purchase from time to time, and the redemption at maturity of the First Mortgage Construction Bonds, of the party of the first part, herein before particularly described, and no part of the principal or interest, of said fund shall be applied to any other use, until all the said bonds shall have been purchased, or redeemed and cancelled. And in the event that the principal of said

First Mortgage Construction Bonds is not otherwise paid at the maturity thereof, then the fund aforesaid, which shall then have accrued from the proceeds of the sales of said lands, and interest thereon, shall be by said trustees, parties of the second part, or the survivor of them, their or his successors, or successor, applied to the discharge and payment of any and all amounts, both principal and interest, then remaining due and unpaid on all such bonds, and if such funds shall then be insufficient to discharge the whole amount then due on all such bonds, the same shall then be applied rateably thereon, according to the interests respectively of all such bondholders,

And it is further stipulated and agreed between the parties hereto, that if there remains a deficit in the payment of the principal and interest due on said Five thousand eight hundred and sixty bonds, after the whole of the fund aforesaid shall be applied thereon, at the maturity thereof, then the trustees, parties of the second part, hereto, their successors or successor, shall have full power and authority, to sell and convey any and all lands then remaining undisposed of which are included in the grant made by the Act of Congress, aforesaid, and which are hereby conveyed, and intended to be conveyed, in whole or in part as the said trustees may deem best for the interests of said bondholders, as may be prescribed or limited by any Act of Congress, in force, at the time of such sale; and if there shall be no such prescription and limitation by law, then said lands shall only be sold at Public Auction, in the City of Portland, in the State of

Oregon, to the highest bidder and no such sale shall be made, unless notice of the time and place thereof shall be first given, by publication, for at least six weeks in a weekly newspaper of general circulation, published in the City of Portland, State aforesaid, and the proceeds of such sale or sales, shall be applied in like manner to the payment of any balance, either principal or interest, then remaining unpaid on such bonds aforesaid, or any of them.

And it is hereby expressly covenanted, agreed and understood, and between the parties to these presents; that notwithstanding the execution and delivery of these presents, and of the covenants herein contained, the said "Oregon Central Railroad Company" the party of the first part hereto, shall have the right at any time after the execution of these presents to make sales of all and singular, the lands granted to said company by Act of Congress of the United States, approved May 4th, 1870, aforesaid, in the manner and mode prescribed by law therefor, and that the parties of the second part shall, and will at any time after the delivery to them of this Indenture, upon the request of the party of the first part, and upon the receipt by the parties of the second part from the party of the first part of the price or consideration for said lands, provided in and by said Act of Congress aforesaid, make, execute and deliver such releases, discharges and assurances in respect to the lands for which they shall have received the consideration provided by law, as the party of the first part or its counsel learned in the law, may require, for the purpose of making good

and sufficient title to said granted lands, so sold, to any and all purchasers thereof, clear and free from all lien or incumbrance created by these presents, and all net proceeds received from the sales of all or any of the lands granted or intended to be granted by said Act of Congress, shall be received and held jointly by the parties of the second part, and the President of the party of the first part, and shall be held subject to their control, and shall be immediately, and as soon as practicable, after the same are received, invested by said parties of the second part by and with the consent of the President of the party of the first part, in United States Bonds, or other more productive securities which securities shall be under the control of said parties of the second part, and the said President of the party of the first part, and shall be used solely in the purchase, from time to time, and the redemption at maturity, of said five thousand, eight hundred and sixty bonds, and it is expressly understood and agreed, that the lien created by this Indenture on said lands granted by said Act of Congress, shall upon the sale of any portion of said lands as aforesaid, and the payment of the purchase price thereof, to the said parties of the second part, cease so far as the same relates to the portion of lands so sold.

The parties of the second part shall not have the right to make sale of any said lands, without the consent of the party of the first part.

Fourthly, that the said "Oregon Central Railroad Company" the party of the first part hereto, shall and will, well and truly, pay the said sums of money in said

five thousand, eight hundred and sixty bonds mentioned, together with the semi-annual interest due, or to become due thereon, at the rate of seven per centum per annum, at the times in the manner, and at the place specified therein; and further, said "Oregon Central Railway Company" hereby covenants and agrees, that in case it shall have for the space of thirty days, made default in the payment of the semi-annual interest due or to become due, on either or any of the said five thousand, eight hundred and sixty bonds, or in case it shall fail to appropriate and set apart, in the hands of the said parties of the second part, all and singular, the net proceeds of the sales of the said lands granted to the party of the first part, by the Act of Congress of the United States as aforesaid as, and for a sinking fund for, and to be applied in payment or redemption of said Five thousand, eight hundred and sixty bonds in the manner hereinbefore, and in said Act of Congress specified then and in either of said cases, after the lapse of said thirty days, the whole principal sum mentioned in each and all of said Five thousand, eight hundred and sixty bonds shall forthwith be and become due and payable, and the lien or encumbrance hereby created for the security and payment thereof, may be at once enforced or anything in said bonds, or in this Indenture to the contrary, notwithstanding, and that it shall and may be lawful and the said parties of the second part, and the survivors, and survivor of them, and their or his successors or successor, are hereby expressly authorized and empowered upon the request, and in writing, of any two or more holders

of any of said Five thousand, eight hundred and sixty bonds, to enter into and upon and to take actual possession of, all and singular the railroad premises, franchises, rights, property real and personal, and effects hereby granted, conveyed, assigned, mortgaged, pledged, transferred and set over or intended so to be as a security for the payment of said Five thousand, eight hundred and sixty bonds, as a security for the payment of said Five thousand, eight hundred and sixty bonds, and by themselves, or their Agents, to take, collect, and receive the tolls, earnings, income, and profits thereof and every part thereof, or to be derived therefrom, and that they, said parties of the second part, and the survivors and survivor of them, and their and his successors and successor, shall and may proceed, and are hereby expressly authorized and empowered thereupon, but within such reasonable time as they may deem proper, not less than sixty days, and upon and after public notice by advertisement for at least six weeks in one or more newspapers, published in the cities of New York, State of New York, and San Francisco, State of California, and Portland, State of Oregon, to proceed to sell at public auction in said city of Portland, to the highest bidder, as well, all and singular, the said railroad, rights and franchises, as all other, the property, real and personal, and premises hereby granted, conveyed, assigned, mortgaged, pledged, transferred, and set over or intended so to be, and all benefit and equity of redemption, whatsoever of the said "Oregon Central Railroad Company," the said party of the first part hereto of in and

to the same, and every part and parcel thereof, together with the benefit of the franchises belonging thereto or connected therewith. And as the attorney or attorneys of the said "Oregon Central Railroad Company" the said party of the first part hereto, for that purpose, and by these presents duly appointed and constituted, the said parties of the second part, and the survivor and survivors of them, and their and his successors and successor shall have full power, and authority to make, execute and deliver to the purchaser or purchasers thereof, a good valid and sufficient deed or deeds; conveyance, or conveyances, assignment or transfer in fee simple or otherwise of said railroad lands, tenement and real estate, of all and singular, the said personal or other property, rights, and premises hereby granted, assigned, transferred or conveyed, as aforesaid, which sale so to be made as aforesaid, in which deeds, conveyances, assignments, and transfers, so to be made and delivered as aforesaid, shall operate to convey, assign, transfer, and vest in said purchaser or purchasers, all the right, title, interest, and estate whatsoever, reversionary, or otherwise of the said "Oregon Central Railroad Company," the party of the first part, of, in, and to the premises sold, conveyed, assigned or transferred, and which said sale so to be made, shall be a complete and perpetual bar, both at law and in equity, against the said "Oregon Central Railroad Company, the party of the first part, its successors and assigns, and all persons and parties claiming by, from, or under it, or them in any wise or manner whatsoever, and that out of the

moneys or proceeds arising either from said tolls, earnings or receipts of said railroad or premises, or at or from said sale so to be made as aforesaid, after deducting first the expenses, disbursements, costs, charges and counsel, fees incurred in and about the conducting of said sale, or running and operating said railroad that they, the said parties of the second part, and the survivors and survivor of them, their and his successors or successor shall pay said Five thousand, eight hundred and sixty bonds or so many as shall be then outstanding, and unpaid, together with all the arrears of interest then due or owing upon the same, rendering or paying over the surplus of all such moneys if any there shall be to the said party of the first part hereto, its successors, or assigns.

This Indenture further witnesseth and these presents are upon the express condition that upon payment in full of said Five thousand, eight hundred and sixty bonds, and the interest due thereon, then these presents, and the estate hereby granted shall cease and be void, and the "Oregon Central Railroad Company" the party of the first part, shall be immediately and fully re-invested with the premises hereby granted in law, and in fact without any entry or other act whatsoever, and that until default shall have been made by said party of the first part hereto, either in payment of said Five thousand, eight hundred and sixty bonds, or in payment of the interest due, or to grow due thereon as aforesaid, or in appropriating and setting apart in the hands of the parties of the second part, their successors or successor, all and singular the net proceeds of the sales of said lands,

granted by the Act of Congress aforesaid, as a sinking fund to be kept invested in Bonds of the United States, or other safe and more productive securities, for the purchase from time to time, and the redemption at maturity of the First Mortgage Construction Bonds of the Company hereinbefore contained, the said "Oregon Central Railroad Company" the party of the first part, and its successors and assigns shall remain in the quiet and peaceable possession and enjoyment of the said premises and property hereby granted and conveyed or intended so to be as aforesaid.

This Indenture Further Witnesseth, and it is hereby expressly agreed, that in case of death, resignation, incapacity or inability of any or either of the parties of the second part to act in the execution of any of the trusts aforesaid, then it shall and may be lawful, and the remaining acting surviving or competent Trustee or Trustees, and the President for the time being, of the said party of the first part, are hereby empowered to select and appoint by an instrument in writing, under their hands and seals, which shall be recorded in the same offices, where This Indenture shall be recorded, one or more competent persons to fill the vacancy or vacancies so created, in the manner aforesaid, and that such person or persons so appointed Trustee or Trustees, shall have and possess, and be invested with the same rights power as a Trustee or Trustees, as he or they would have had and possessed or been invested with had or they been originally made a party or parties of the second part to this Indenture, and shall perform the same duties in all

respects, and until such appointment shall so be made, in the manner aforesaid, and notwithstanding any vacancy or vacancies as aforesaid, said remaining, surviving, acting or competent trustee or trustees shall have full power and authority to execute each and all the trusts hereby created and their and his acts in the premises, shall be as legal, valid and effectual in all respects and to all intents and purposes as if the same acts had been done and performed by all the parties hereto of the second part; and in case said appointments shall be made in the manner aforesaid, said party of the first part hereby covenants to make, execute and deliver all such other or further instruments, deeds, indentures, or assurances as may be necessary to enable the person or persons so appointed, to execute the trusts hereby created, and declared, as fully and perfectly, in all respects, as he or they could have executed the same, if originally made a party or parties of the second part to this Indenture:

In Witness Whereof the said "Oregon Central Railroad Company" the party of the first part hereto, hath caused these presents to be subscribed by its President; and attested by its Secretary, and hath under the express authority of the Resolutions of its Board of Directors, caused its Corporate Seal to be hereunto affixed; and the parties hereto of the second part, for the purpose of signifying their acceptance of the trusts hereby and herein created, have hereunto subscribed their names and affixed their respective seals: All done the day and year first above written.

d) **BEN HOLLADAY,**
President of the Oregon Central R. R. Co.

R. H. TOWLER,
Secretary of the Oregon Central R. R. Co.

MILTON S. LATHAM, (Seal))
 FAXON D. ATHERTON, (Seal)) Trustees.

Sealed and delivered
in presence of
A. C. Cunningham,
E. A. Cunningham.

State of Oregon,)
County of Multnomah.) ss.

Be it remembered, that on the fifteenth day of July A. D. One thousand eight hundred and Seventy One, before me the undersigned, a Notary Public in and for the said County of Multnomah and State of Oregon, duly commissioned and qualified, personally came Ben Holladay the President of the Oregon Central Railroad Company and R. H. Towler, Secretary of the Oregon Central Railroad Company, whose names are subscribed to the foregoing mortgage or deed of trust, as parties thereto and as the president and Secretary of said Oregon Central Railroad Company, both personally known to me to be the individuals named and described in, and who executed the said mortgage or deed of trust, and they severally acknowledged to me, that he, the said Ben Holladay as President of the said Oregon Central Rail-

road Company, and he the said R. H. Towler, as Secretary of Oregon Central Railroad Company, executed the foregoing mortgage or deed of Trust, as and for the act and deed of the Oregon Central Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned, and he; the said R. H. Towler, being by me duly sworn did depose and say, that he is the Secretary of the Oregon Central Railroad Company, and resides in the City of Portland, Multnomah County, in the State of Oregon, that he is the legal custodian of, and has in his possession, and is acquainted with the Corporate Seal, of the said Oregon Central Railroad Company; That the seal affixed to the within and foregoing mortgage or deed of Trust is such Corporate Seal; that the same was so affixed by him as Secretary of said Company on the fifteenth day of July A. D. One thousand eight hundred and seventy one, By order of the Board of Directors of said Company, and that he signed his name as Secretary thereto by the like order of the said Board of Directors.

In Witness whereof, I have hereunto subscribed my name and affixed my Notarial Seal, the day and year above written, at the City of Portland, Multnomah County, State of Oregon.

(Signed), ANDREW J. MOSES,

(Notarial Seal) Notary Public in and for the County
 of Multnomah, State of Oregon

5 cents U. S. Int. Revenue Stamps cancelled

State of Oregon,)
) ss.
County of Multnomah.)

I, R. H. Towler, Secretary of the Oregon Central Railroad Company, do hereby certify that each of the Five thousand eight hundred and sixty bonds, which this mortgage or deed of trust is given to secure, has placed upon it the requisite United States Internal Revenue Stamps required by law: that such bonds in the aggregate have placed thereon and all duly cancelled, United States Internal Revenue Stamps to the amount Four thousand three hundred and ninety five dollars.

Witness my hand and the seal of said Company

Signed, R. H. TOWLER,

(Seal)

Secretary of the Oregon Central

Railroad Company

(5 cents U. S. Revenue stamps cancelled)

State of Oregon)
) ss.
Department of State)

I, S. F. Chadwick, Secretary of the State of Oregon do hereby that Andrew J. Moses, whose name subscribed to the foregoing and annexed certificate of acknowledgement to said Mortgage or deed of Trust, was at the time of taking such acknowledgement and signing such certificate to wit: on the fifteenth day of July A. D. One thousand eight hundred and seventy one, a duly commissioned, qualified and acting Notary Public in and for the County of Multnomah and State

of Oregon, and that he then was, by the laws of the State of Oregon, duly authorized and empowered to take and certify under his notarial seal acknowledgements of deeds of conveyance and mortgages and deeds of trust and his signature to such certificate is genuine, also his Notarial Seal, and that full faith and credit are due to his official acts as such.

Witness my hand and the Great Seal of the State, at my office in the City of Salem, State of Oregon, this fifteenth day of July A. D. one thousand eight hundred and seventy one. (1871)

Signed, S. F. CHADWICK,

Secretary, State of Oregon

(Great Seal, State of Oregon)

United States Revenue Stamps, 5 cents cancelled.

Resolved, That the President and Secretary be, and they are hereby authorized and empowered to do and perform each and every act and thing necessary or proper to be done or performed under or virtue of the foregoing resolution.

Director Crawford offered the following resolution, which being seconded by Director Scott, was unanimously adopted:

Resolved, That Section six (6) of the Bye-Laws of this Company be amended so as to read:

The Board of Directors shall hold regular monthly meetings on the second Wednesday of each month, at the office of the Company, at the hour of eleven o'clock

A. M. of said day, and a majority of the Directors present shall constitute a quorum to transact business, and each Director shall receive ten dollars for each meeting of this Board he shall attend.

Special meetings may be called by the President. Upon motion the meeting then adjourned.

BEN HOLLADAY, President.

R. H. TOWLER, Secretary.

Office of the Oregon Central Railroad Company,

Portland, Oregon, Sept. 4th, 1871.

The Board of Directors of this Company met pursuant to the call of the President and written notice to each of the Directors in Portland, this day at seven o'clock P. M.

Present Ben Holladay in the Chair, Directors W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, H. W. Scott, and Medorum Crawford. No business being brought before the meeting, they adjourned on motion to meet at the Call of the President.

BEN HOLLADAY, President

R. H. TOWLER, Secretary

Office of the Oregon Central Railroad

Co., Portland, Oregon, Sept. 7, 1871

Pursuant to the call of the President the Board of Directors of this Company met at the Company's office in the City of Portland, this day at ten o'clock A. M.

Present, Ben Holladay in the Chair, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell and H. W. Scott.

Director Weidler offered the following resolution which was unanimously adopted:

Resolved: That the President and Secretary of this Company be, and they are hereby authorized and instructed to make, execute and deliver in the name of this Company, and under its Corporate Seal, to the City of Portland, in the sum penal of Twenty Five Thousand Dollars in U. S. Gold Coin, a Bond, conditional that, this Company will, in the event of the ordinance now pending before the Common Council of the City of Portland, is passed, in laying its railroad track along North Fourth, Fourth, and South Fourth Streets of the City of Portland, at its own cost and charges, change the grade and improvements of such streets, wherever heretofore improved, so as to conform to said ordinance last referred to,

On motion the Board then adjourned.

BEN HOLLADAY, President

R. H. TOWLER, Secretary

Office of the Oregon Central R. R. Co.,

Portland, Oregon Sept. 15, 1871

Pursuant to the call of the President of Board of Directors of this Company met this day at the Company's office in the City of Portland at eleven o'clock A. M.

Present Ben Holladay, President in the Chair, W. L. Halsey, Geo. W. Weidler, M. Crawford, J. H.

Mitchell and H. W. Scott.

Upon motion of Mr. Mitchell, the following resolution was unanimously adopted:

Resolved: That the President and Secretary of this Board, do make, execute and deliver to C. M. Carter and Jas. B. Harker, Trustees in the Railroad Mortgage made by this Company of date Nov. 11th A. D. 1868, a Bond of Indemnity, in the Penal sum of \$5000—conditional that if said Trustees will enter satisfaction of Record of said Mortgage that this Company will indemnify said Trustees against all liability on two Bonds, outstanding and held by some person or persons fraudulently and without consideration, said two Bonds being of the denomination of One thousand dollars each, said bond to be with two sureties.

On motion the Board then adjourned, subject to the call of the President.

BEN HOLLADAY, President

Attest: R. H. TOWLER, Secretary

Copy of Bond of Indemnity from the Oregon Central Railroad Company to C. M. Carter, and Jas. B. Harker, Trustees.

KNOW ALL MEN BY THESE PRESENTS.

That the Oregon Central Railroad Company, a corporation duly incorporated at Portland, Oregon, as principal, and M. Crawford, and H. W. Scott as Sureties, are held and firmly bound unto C. M. Carter and

Jas. B. Harker of Portland, Oregon, in the full sum of Five thousand dollars Gold Coin of the United States for the payment of which, well and truly to be made and done, said Oregon Central Railroad Company, does bind itself and its successors, and the said sureties, do firmly bind themselves, their heirs, executors, and administrators firmly by these presents sealed, as hereinafter stated.

WHEREAS: said Oregon Central R. R. Company, did on the Eleventh day of June A. D. 1868, make, execute, and deliver to said C. M. Carter, and Jas. B. Harker, as Trustees for the benefit of the Bondholders a certain Mortgage, which mortgage was afterwards duly recorded in Multnomah and other Counties in Oregon, and Whereas, all the Bonds of said company, with the exception of two of the denomination of \$1000, each, which said mortgage was given to secure, have been duly called in and redeemed by said "Oregon Central Railroad Company," and which Two, not so called in and redeemed, it is claimed by said "Oregon Central Railroad Co., are wrongfully and unlawfully held, by some person or persons, without having paid any consideration therefor and whereas: The said C. M. Carter and Jas. B. Harker, are about to acknowledge satisfaction of said Railroad Mortgage of Record.

Therefore: The condition of this Bond is such that the said C. M. Carter and Jas. B. Harker do acknowledge satisfaction of said mortgage of Record, and if the said parties of the first part bounders herein do forever save, indemnify and keep harmless, the said C. M. Carter and Jas. B. Harker, and their heirs, execu-

tors, and administrators from all costs, expenses, damages and liability whatever on or by reason of said two bonds so yet outstanding and not taken in, then this obligation to be void, otherwise to remain in full force and virtue in the Law.

As Witness the Corporate Seal and the signatures of the President and Secretary of the said Oregon Central Railroad Company, attached hereto, this fifteenth day of September A. D. 1871, By Order of the Board of Directors of said Company and witness also the hands and private Seals of said Sureties, aforesaid, all done at Portland, Oregon, the date aforesaid,

Signed, Ben Holladay, Pres. O. C. R. R. Co.

Signed, R. H. Towler, Secy O. C. R. R. Co.

Signed, M. Crawford) (Seal)

Signed, H. W. Scott) (Seal)
Sureties)

(Seal of Oregon Central
R. R. C.)

Witness Present

Signed W. L. Halsey

Signed A. G. Cunningham

Portland, Oregon

December 4th, 1871

Pursuant to call of the President the Board of Directors met at 11 o'clock A. M. this day at the office of the Company,

Present, The President and Meus. J. H. Mitchell, M. Crawford, H. W. Scott, and Geo. W. Weidler, Directors.

The meeting was organized by calling upon C. S. Dryer to act as Secretary pro tem.

Upon motion of Mr. Weidler, and the same being seconded, the following Resolutions were adopted, viz:

Resolved, that Whereas R. H. Towler, Secretary of this Company is now absent from the United States, and will not return during the next year, that the office of Secretary be declared vacant and further

Resolved, that C. S. Dyer be and he is hereby elected and unanimously declared the permanent Secretary of this Company.

There being no further business before the meeting, the same was declared adjourned to meet at the Call of the President.

C. S. Dyer, Secretary (No signature) President

Office Oregon Central Railroad Co.,

Portland, Oregon Dec. 22, 1871

Pursuant to the call of the President the Board of Directors met at the office of the Company this day at 11 o'clock A. M.

Present, President Meurs. Scott, Crawford and Weidler.

The minutes of last meeting being read and approved, on motion of Mr. Scott, the same being seconded, the fol-

lowing resolution was read and unanimously adopted.

Resolved, that the Line of the Oregon Central Railroad Co. as located by the survey and Maps of H. Thiel-sen, Chief Engineer of this Company, and herewith presented, from a point in the town of Astoria, Oregon, thence following up the Young and Klackskanine Rivers, to the summit of the Coast Range, thence down Fish Hawk Creek and up the Nehalem River to Castov Creek, thence up Castov Creek, to a point outside of the Public Surveys, one mile north of the summit of the range of hills dividing the Tualitin and Nehalim Vallies, be, and the same is hereby adopted and confirmed as the definite location of the said line of said road, and said surveys and maps, herewith presented are hereby adopted and approved.

There being no further business before the Board, the same was adjourned, to meet at the call of the President.

C. S. Dyer, Secretry

Ben Holladay, President

BY LAWS

Office Oregon Central Railroad Co.,

Portland, January 9, 1872

Pursuant to the call of the President by written notice the Board of Directors met this day at 8 o'clock P. M.

Present, Ben Holladay, President, Meur. T. R. Cornelius, H. W. Scott, M. Crawford & Geo. W. Weid-

ler, Directors. The meeting being called to order, and the reading of the minutes, being dispensed with—

On motion of Mr. Cornelius, seconded by Mr. Scott, the following resolution after being read, was unanimously adopted, viz:

Resolved, That the Stock Books of this Company, be opened for the subscription of the unsubscribed balance of the Capital Stock of the Company.

On motion of Mr. Weidler, seconded by Mr. Crawford, the following resolution after being read was unanimously adopted, viz: Resolved: That all the Bye Laws of this Company heretofore adopted be and they are hereby repealed, and that the following be and they are hereby adopted as the

BYE LAWS

of the

OREGON CENTRAL RAILROAD COMPANY

of Portland

FIRST—The Board of Directors shall consist of seven (7) members to be annually elected by a majority vote of the stockholders, to serve for one (1) year, or until their successors are elected and qualified.

Vacancies occurring on the Board, by death, resignation, or otherwise, shall be filled by the Board electing a stockholder of this company to serve for the remainder of the term,

Any Director ceasing to be a Stockholder ceases to be a Director.

Second—The officers of the Board shall be a President, Vice President, and Secretary, who shall be elected by the Directors, at their first meeting after the annual election, to serve for one (1) year and until their successors are elected and qualified.

Third—The Directors shall hold regular monthly meetings, on the Second Wednesday of each month at the office of the Company, at the hour of 11 o'clock A. M. of said day,

A majority shall constitute a quorum for the transaction of business, provided that no bye-Laws shall be acted on, except at a regular meeting of the Board, when all the members are present and the same shall have been offered at a regular meeting previous thereto.

Notice of all Called or special meetings, of the Board of Directors shall be given by either serving notice thereof, personally, or leaving such notice, at the office, or residence or place of business, of such Director, provided it shall not be necessary to notify any Director, that may be absent from the State of any meeting of the Board, provided a quorum is within the State.

Fourth—Upon the request in writing signed by any two of the Directors, stating the business to be considered, and acted on by the Board, the President shall call a meeting of the Board, for such a time as he may decide,

Fifth—There shall be an Annual Election held by

the Stockholders of this Company on the 4th Thursday of May of each year at the office of this Company, at which the President shall preside, and sign a certificate of the result of such election.

The voting shall be by ballot, each stockholder shall cast one vote for each share of stock standing in his name on the books of this Company, on the day of such election, upon which there is no assessment due and unpaid.

Shares of Stock voted by proxy shall not be counted, unless the power of attorney authorizing said proxy be attached to such ballot,

Sixth—Each stockholder shall be notified by written or printed notice, delivered to him or mailed to his address so as to be received by him at least ten days previous to the day for holding such election, stating the time and place for holding the same.

Seventh—The Transfer Book of the Company shall be closed for ten days previous to and on the day of the Stockholders annual election. The Secretary shall make a certified statement of the stockholders on the day of said election for the government thereof.

Eighth—The President shall preside at all regular and called meetings of the Board; shall call the Board together as often as he may deem proper; shall have full control of all and every branch of the locating, equipping, and operating the road, to be built by this Company, have full authority and power to employ heads of departments and operatives and fix salaries to be paid to the same; also the salaries of officers of this Company, to

contract for, and purchase railroad iron locomotives, and all rolling stock required, tools, machinery, lands for right of way and Depot purposes, all and every article used or necessary for the construction, equipment, and operating of said road, to make contracts, negotiate loans in the name of this Company, and for its use, and to such extent, and upon such terms, as he may deem advisable: Also the sale of bonds, and transact all financial business of the company, of every kind and nature whatever, prosecute or discontinue work, on said road at pleasure, and do all and everything requisite to be done for the interests of said Company,

Ninth—The Vice President shall assist the President in the discharge of his duties, and in his absence, preside at all meetings of the Board and discharge all the duties of the President, and have all the powers conferred upon the President of this Company, by Article 8 of this Code.

Tenth—The Secretary shall attend all meetings of the Board, keep minutes of the proceedings and record the same in a book to be kept for that purpose, shall cause the books and papers of the Company to be kept in a neat and comprehensive manner, have Monthly Trial balances of the Books, showing face of Ledger, balance of accounts etc, rendered, shall countersign all contracts, agreements, mortgages, deeds, stocks, and other papers binding said Company, and shall have the keeping of the Corporate Seal of the Company.

Eleventh—The Permanent Seal of this Company

shall be the same as the impression herein.

No deed, mortgage, bond, stock, certificate agreement, or other instrument of writing of whatever nature or description, shall be binding on this Company, until signed by the President countersigned by the Secretary, and sealed with the corporate Seal of the Company.

Twelfth, At each regular meeting of the Board, the order of business shall be

1st—Reading the minutes of previous meetings and action thereon.

2nd—Unfinished business of last regular meeting

3rd—Reports of Committees and action thereon,

4th—New business

5th—No resolution or motion shall be considered unless it be seconded.

6th—All votes in the Board shall be viva voce unless a division be demanded, then each member shall vote yea or nay in answer to his name when called, and a majority shall decide.

Thirteenth—Each Director shall receive ten (10) dollars for each meeting of this Board he shall attend,

On motion of Mr. Weidler, seconded by Mr. Scott, the following Resolution after being read, was unanimously adopted—viz

Resolved: That J. Gaston, and T. R. Cornelius be and they are hereby appointed Agents of this Company, with authority to demand payment for stock of this Com-

pany, which has been subscribed, according to the terms of the subscription or to accept the surrender of said stock, or the transfer of the same to the Company or to such persons as may be designated,

On motion of Mr. Crawford, seconded by Mr. Cornelius, the following Resolutions, after being read was unanimously adopted, viz:

Resolved: That the President and Secretary of this Company, be and they are hereby authorized to purchase for this Company at a price not exceeding Twenty thousand dollars (\$20,000) U. S. Gold Coin, all that piece or parcel of land situate in Multnomah County, Oregon, known and described as Block "E" in Couch Addition to the City of Portland, for the purpose of erecting thereon a "Round House" and other buildings.

On motion of Mr. Cornelius, seconded by Mr. Scott, the following resolutions after being read were unanimously adopted, viz:

Resolved: That this Company purchase of and from the Portland Warehouse and Dock Company of Portland, Oregon, the following described piece of land, to wit: In the Northern extension of Couch's addition to the City of Portland in Multnomah County, State of Oregon, a piece or parcel of land bounded, and described as follows, to wit: commencing at a point on the east line of Front St., in Couch's addition to the City of Portland, from which the South West corner of Block No. 21, in said addition bears south $29^{\circ} 1'$ East, 150 feet, thence North $29^{\circ} 1'$ West, along said line of Front Street 271-

3/10 feet, thence North $40^{\circ} 16'$ West along said line of Front Street 271-5/10 feet: thence North $57^{\circ} 41'$ East, 178-1/10 feet, thence south $27^{\circ} 28'$ East 548 feet, being parallel with and 20 feet West of the Portland Warehouse and Dock Company's Warehouse—thence South $60^{\circ} 59'$ West 110 Feet to the point of beginning; for a sum not exceeding one hundred ten (\$110,000) thousand dollars, payable in Gold Coin: and the further consideration that this Company shall covenant and agree to, and with said Portland Warehouse and Dock Company to make such piece of land the point for the reception and discharge of all passengers travelling on the railroad of this Company, to and from the City of Portland for the term of Fifty (50) years, and also the point for the receipt and discharge of all City freight passing over said rail road either way for the said term of Fifty (50) years:

And the President and Secretary of this Company are hereby authorized and instructed to enter into a contract as above in the name of this Company, and under its Corporate Seal for the purchase of such piece of land, and to receive a Bond for a deed for the same from said Portland Warehouse and Dock Company Deed to be made upon the full payment of all the purchase money as above.

On motion of Mr. Crawford, seconded by Mr. Scott, the following resolution after being read was unanimously adopted, viz:

Resolved: That the President and Secretary of this

Company be and they are hereby authorized to lease the following described piece of land, belonging to this Company, and situate in the Northern addition of Couch's Addition to the City of Portland, to wit:

One piece of land marked "O C R R Co." on the map marked "A", attached to and made part of the deed from John H. Couch et al to O. C. R. R. Co. and commencing for the same at the Northwest corner of the lands of the Oregon Steam Navigation Company (commonly called the "Bone yard") and running from thence North westerly six hundred feet on a parallel extension of the South west boundary line of said "Bone yard" to a stake thence north easterly on a line parallel with the North West boundary line of said "Bone yard" two hundred feet, more or less to the Willamette River; thence along the said River six hundred feet to the North West boundary line of said "Bone yard" thence on a straight line to the place of beginning, with all the Water rights wharf privileges and franchises therewith connected and extending to the North East line of the grantees Claim in said river.

Such lease to be made in the name of this Company, and under its Corporate name and Seal, and to the Portland Warehouse and Dock Company of Portland, Oregon, on the following terms.

Such lease to be for the term of 20 years (Twenty) from date of lease, the said Portland Warehouse and Dock Company to pay a yearly rental of one Dollar per year, and also to erect suitable warehouse or houses and

platform or dock thereon, for the reception and storage of freight, and to receive and store all materials used or to be used in the construction or repair of the road of this Company, during the continuance of this lease free of all Charges,

This Company to covenant in and by said lease to land all freight of every description passing either way over the railroad of this Company (except City freight) on the improvements so to be made on the piece of land hereinbefore designated for and during the whole term of such lease, all such freight to be subject to such reasonable charges as the said "The Portland Warehouse and Dock Company" may from time to time impose thereon for Dockage or Storage—

This Company to pay said lessee the reasonable value of all improvements on such piece or parcel of land at the expiration of such lease.

On motion of Mr. Crawford, seconded by Mr. Weidler, the following Resolutions, after being read, were unanimously adopted, viz:

"Resolved: That the parties settling upon and improving any of the lands of the Oregon Central Railway Company, before the same are opened for market, shall be entitled to the pre-emption privilege of purchase on the same terms as the Company would sell the land for without improvement, and shall be subject to the same conditions of payment as all other lands belonging to the Company when brought into market.

Provided: such settlers shall file in the Land Office

of said Company, written application, giving notice of such settlement, and shall accept the privilege upon the condition that when the price of the land shall be fixed, notice thereof shall be sent by the Company's Land Agent, through the Post Office or otherwise as may be convenient, to the residence of the party claiming the pre-emption privilege, and if the land is not purchased by the said party, within sixty days from the date of such notice, the Company will be at liberty to sell the land to any other person.

Resolved: That the lands of this Company be sold upon the following terms—One fifth Cash, the balance in five annual installments bearing interest at the rate of ten per Cent per annum, payable annually.

Resolved: That payments for land sold by this Company, be received in United States Currency.

Resolved: That J. R. Moores is duly authorized to act as Land Agent for this Company.

On motion of T. R. Cornelius, seconded by Mr. Crawford, the following resolution, after being read was unanimously adopted, viz: Resolved: That Ben Holladay, President of this the Oregon Central Railroad Co'y, be and he is hereby specially authorized for and on behalf of this Company, to contract for and purchase Railroad Iron locomotives, and all rolling stock required, and all and every article used and necessary for the construction, equipment and operating of this said Oregon Central Railroad Company, to make contracts, negotiate loans in the name of this Company, and for its use,

and to such extent, and upon such terms as he may deem advisable. Also to negotiate and sell, hypothecate or pledge, to such person or persons in such place or places, and upon such terms and for such price as he may deem for the best interests of this said Railroad Company, each and all of the Five thousand eight hundred and sixty (5860) Bonds now issued by this said Oregon Railroad Company, amounting in the aggregate to the sum of four million three hundred and ninety five thousand (\$4,395,000) Dollars, also to transact all financial business of the Company of every kind and nature whatever either in this country or any foreign country.

And that the Secretary of this Company be and he is hereby instructed to furnish the said Ben Holladay a copy of this Resolution over his signature as said Secretary, and to attach to the same the Corporate Seal of the said Oregon Central Railroad Company.

There being no further business before the meeting, on motion the same was adjourned sine die.

BEN HOLLADAY, President

C. S. DYER, Secretary

THIS INDENTURE, made the 15th day of January, A. D. 1872, in the year of our Lord, one thousand eight hundred and seventy two,

Between, Geo. W. Weidler, party of the first part, and The Oregon Central Railroad Company, of Portland, Oregon, a corporation duly incorporated under the laws of the State of Oregon, party of the Second part;

WITNESSETH: That the said party of the first part for and in consideration of the sum of Twenty Thousand (\$20,000) Dollars, in Gold Coin of the United States of America, to him in hand, paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed, confirmed, and by these presents do, grant, bargain, sell, alien, remise release, convey, and confirm unto the said party of the second part, and to its successors and assigns forever, all that piece or parcel of land situate in the Multnomah County, Oregon, and known and described as Block E in Couch Addition to the City of Portland, in the County of Multnomah, and State of Oregon. The same being a fractional Block bounded on the North by K. Street, on the East by North Front Street, and North Fourth Street, on the South by J Street, and on the West by North Fifth Street in said City of Portland.

TOGETHER WITH ALL AND SINGULAR the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders rents, issues, and profits thereof, and also all estate right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity of the said party of the first part, of, in, or to the said premises, and every part and parcel thereof with the appurtenances.

To Have and To Hold, all and singular the said premises, together with appurtenances unto the said party of the second part and to its successors and assigns

forever, and the said party of the first part and his heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns against the said party of the first part and heirs and against all and every person and persons whomsoever lawfully claiming or to claim the same, by, through, or under, the party of the first part shall and will warrant, and by these presents forever Defend,

In Witness Whereof, the said party of the first part, has hereunto set his hand & seal the day and year first above written.

Signed, Sealed and Geo. W. Weidler (SEAL)
Delivered in the Presence of

J. N. Dolph

J. R. Moores

State of Oregon)
) ss.
County of Multnomah)

Be it remembered that on this 15th day of January A. D. 1872, before me the undersigned, a Notary Public in and for the State of Oregon, personally came Geo. W. Weidler, personally known to me to be the person described in and who executed the foregoing deed and acknowledged to me that he executed the same freely and voluntarily,

In Witness whereof, I have hereunto set my hand and seal the day and year first above written.

(Seal) (#20, U. S. Rev. stamp)

J. R. Moores, Notary Public

Articles of Agreement made and entered into at Portland, Oregon, this Fifteenth day (15th) of January A. D. one thousand eight hundred and seventy two, BETWEEN

The Portland Warehouse and Dock Company, a corporation duly incorporated, under the General Incorporation Laws of the State of Oregon, party of the first part, and the Oregon Central Railroad Company, a Corporation duly incorporated at Portland, Oregon, under the General Incorporation Laws of the State of Oregon, party of the Second part.

WITNESSETH: That the party of the first part in and for the consideration of the sum of One hundred and ten thousand Dollars, and other good and valuable considerations hereinafter named, does for itself, and its successors hereby sell and agree to convey to the said party of the second part, the said The Oregon Central Railroad Company, its successors and assigns all the following described lot piece or parcel of land, situated and being in the Northern Extension of Couch's Addition to the City of Portland in Multnomah County, Oregon, to wit: Commencing at a point on the East line of Front Street in Couch's addition to the City of Portland, from which the south west corner of Block No. 21 in said addition bears South $29^{\circ} 1'$ East 150 feet, thence North $29^{\circ} 1'$ West along said line of Front Street $271\text{-}3/10$ feet thence North $40^{\circ} 16'$ West along said line of Front Street $271\text{-}5/10$ feet thence North $57^{\circ} 41'$ East $178\text{-}1/10$ feet, thence South $27^{\circ} 28'$ East 548, feet being parallel with and 20 feet west of the Portland Ware-

house and Dock Company's Warehouse, thence south 60° 59' west 110 feet to the point of beginning.

In consideration whereof, said party of the second part for itself, and its successors does hereby covenant to and with said party of the first part, its successors and assigns, that it the said party of the second part will on or before one year from this date pay or cause to be paid to the party of the first part, or its successors, the full sum of (\$110,000) One hundred and ten thousand Dollars in U. S. Gold Coin, together with interest thereon from this date at the rate of Ten per Cent per annum in like Gold Coin, and upon the payment of such sum in full with interest as aforesaid,

The said party of the first part herein shall make or cause to be made, executed and delivered to the said party of the second part a good and sufficient deed of conveyance, clear of all incumbrances, for the lot, piece, or parcel of land, hereinbefore described;

But it is expressly agreed by the parties hereto, That it is a part of the consideration hereof, and this agreement is upon the express condition, and the said Deed of Conveyance shall so recite, that the party of the second part, shall for the term of Fifty years from this date make said lot or piece or parcel of land hereinbefore described the permanent and exclusive landing or Depot for all passengers traveling to and from the City of Portland on the Oregon Central Railroad Co'y, and shall also for said term of Fifty years from this date make such piece or parcel of land hereinbefore described the permanent

landing or Depot for all City Freight transported either way on said Oregon Central Railroad, and a failure to comply with these covenants upon the part of said The Oregon Central Railroad Company, its successors or assigns, shall operate at the option of the party of the first part, its successors, or assigns, a total forfeiture of the whole title and estate, in said piece or parcel of land to the party of the first part, its successors or assigns, and such condition shall be expressed in said Deed of Conveyance.

In Testimony whereof the said parties of the first and second part, by their respective Presidents and Secretaries, all being thereunto duly and specially authorized by resolutions of the Respective Boards of Directors of said two Companies, parties of the first and second part herein have hereto caused the Corporate names of said Companies to be attached, and their Corporate Seals affixed, and witness also the signatures respectively of the said Presidents and Secretaries.

A. G. Cunningham, President

Portland Warehouse and Dock Co'y

C. S. Dyer, Secy

Portland Warehouse & Dock Co.

(Seal Portland Warehouse & Dock Co.)

Ben Holladay, President,

Oregon Central Railroad Co.

(Seal O & C R R Company)

C. S. Dyer,

Secy Oregon C. Railroad Co'y

Signed Sealed & delivered in presence of

J. N. Dolph

Laurence Higgins

25 cts Revenue Stamps U. S.

State of Oregon)	
	)	ss.
County of Multnomah)	

Be it remembered that on this fifteenth day of January in the year of our Lord, One Thousand eight hundred and seventy two before me the undersigned, a Notary Public, in and for said County of Multnomah and State of Oregon duly commissioned, sworn, and fully qualified personally appeared the above named Ben Holladay, President of the Oregon Central Railroad Company, and C. S. Dyer, Secretary, of the Oregon Central Railroad Company, whose names are subscribed to the foregoing instrument or parties thereto, personally known to me to be the individuals described in and who executed the said instrument, and they severally acknowledged to me that he, the said Ben Holladay, as President of the said Oregon Central Railroad Co'y and he the said C. S. Dyer as Secretary of the said Oregon Central Railroad Company, executed the same; as and for the Act and Deed of the said Oregon Central Railroad Company, freely and voluntarily and for the uses and purposes therein mentioned and the said C. S. Dyer being by me duly sworn, did depose and say he is the Secretary of the Oregon Central Railroad Co'y and resides at the City of Portland, Multnomah County, in the State of Oregon.

That he is the legal custodian of and is acquainted

with the Corporate Seal of said Company, that the Seal affixed to the foregoing agreement is such corporate seal, that the same was so affixed by him as Secretary of said Company, on the fifteenth day of January A. D. one thousand eight hundred and seventy two, by order of the Board of Directors of said Company, and that he signed his name as Secretary to said agreement by the like order of said Board of Directors.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my Notarial Seal the
day and year first above written.

J. R. MOORES

(Notarial Seal)

Notary Public

State of Oregon)
) ss.
 County of Multnomah)

Be it Remembered that on this Fifteen day of January in the year of our Lord one thousand eight hundred and seventy two, before me the undersigned a Notary Public, in and for the said County of Multnomah, and State of Oregon, duly Commissioned sworn and fully qualified personally appeared the above named A. G. Cunningham, President of the Portland Warehouse and Dock Company, and C. S. Dyer, Secretary of the Portland Warehouse and Dock Company, whose names are subscribed to the foregoing instrument, as parties thereto, personally known to me to be the individuals described in, and who executed the said instrument, and they severally acknowledged to me that he the said

A. G. Cunningham, as President of the said Portland Warehouse and Dock Company, and the said C. S. Dyer, as Secretary of the said The Portland Warehouse and Dock Company, executed the same, and for the act and deed of the said The Portland Warehouse and Dock Company, freely and voluntarily, and for the uses and purposes therein mentioned, and the said C. S. Dyer, being by me duly sworn, did depose, and say that he is the Secretary of the Portland Warehouse and Dock Company, and resides at the City of Portland, Multnomah County, in the State of Oregon;

That he is the legal custodian of, and is acquainted with the Corporate Seal of said Company, that the seal affixed to the foregoing agreement is such corporate seal, that the same was so affixed by him as Secretary of said Company on the Fifteenth day of January A. D. one thousand eight hundred and seventy two, by order of the Board of Directors of said Company and that he signed his name as Secretary to said agreement by the like order of said Board of Directors.

IN WITNESS WHEREOF I have hereunto subscribed my name and affixed my Notarial Seal the day and year first above written.

J. R. MOORES,

(Notarial Seal)

Notary Public

THIS INDENTURE OF LEASE made this 15th day of January A D One thousand eight hundred and seventy two; BETWEEN The Oregon Central Railroad Company of Portland, Oregon, a Corporation

duly incorporated, under the General Incorporation laws of the State of Oregon, party of the first part and; The Portland Warehouse and Dock Company a corporation also duly incorporated, under the general incorporation laws of the State of Oregon, party of the second part.

WITNESSETH: The said Oregon Central Railroad Company, party of the first part, in and for the consideration of the yearly rental of One Dollar, Gold Coin, of the United States, to the party of the first part, to be paid at the end of each year by the party of the second part, and other considerations hereinafter named, does by these presents demise and lease unto the said The Portland Warehouse and Dock Company, party of the second part, and to its successor and assigns for the full term of Twenty years from this date all the following described piece or parcel of land situate and being in the Northern Extension to Couch's Addition to the City of Portland in Multnomah County, Oregon, to wit:

One piece of land marked "O C R R Co" on the map marked "A" attached to and made part of the Deed from John H. Couch et all to "O C R R Co" and commencing for the same at the Northwest corner of the lands of the Oregon Steam Navigation Co'y (commonly called the Bone yard), and running from thence North westerly six hundred feet on a parallel extension of the southwest boundary line of said "Bone yard" to a stake, thence northeasterly on a line parallel with the northwest boundary line of said "Bone yard" two hundred feet more or less to the Willamette River

thence along the said river six hundred feet to the north west boundary line of said "Bone yard" thence on a straight line to the place of beginning, with all the water rights, wharf privileges, and franchises therewith connected and extending to the northeast line of the grantees claim in said river.

Together: with a right of way, at both the upper and lower portions of the hereinbefore described and leased premises from Front Street in said City of Portland to the said premises at least fifty feet (50) in width over and across all lands now owned by the said Oregon Central Railroad Company party of the first part, and all lands, which shall be hereafter acquired by said Oregon Central Railroad Company, during the continuance of this lease for the passage of passengers, stock, animals, and freight of every name and nature, drays, hacks, wagons and vehicles of every description to and from the said described and leased premises, and the improvements to be thereon erected to forever remain open and unobstructed by the party of the first part to the width aforesaid for the use of the party of the second part, and free to all persons having business with the party of the second part, on occasion to pass to or from said leased premises,

To Have and To Hold, the said described piece or parcel of land and the appurtenances by the party of the second part its successors and assigns for the sole purpose and exclusive use of the business of said party of the second part for warehouses, and for the receipt, transit over, landing on and storage of freight of every

description, and also of passengers if so needed, or desired by the party of the second part for such purpose, and said right of way forever,

And in consideration of such lease, the said party of the second part for itself, its successors, and assigns, covenant and agree to and with the said party of the first part, That the said party of the second part will within the next twelve months ensuing cause to be erected on said described piece of land hereby leased, a warehouse or warehouses of sufficient capacity and platform or dock to receive and store all freight coming to that point by said Railroad and Ocean & river vessel and to maintain the same during the continuance of this lease, and further to receive and store all iron or other materials used or to be used, in the construction or repair of said road of the Oregon Central Railroad Company, party of the first part during the continuance of this lease, without any charge whatever to said party of the first part, and further to pay to said The Oregon Central Railroad Company, party of the first part, the yearly rental of One Dollar U. S. Gold Coin, during the term of this lease said party of the second part to keep said warehouses and platforms or docks on said piece of land hereby leased in good repair for the receipt and storage of freight during the continuance of this lease,

It is further covenanted and agreed by the party of the first party for itself, its successors and assigns to and with the party of the second part:

That the said party of the first part, its successors,

and assigns, shall and will cause all the freight shipped on the said Railroad of the party of the first part, during the continuance of this lease (except City freight) to be landed on and taken over the said piece of land, hereby leased, and over and through the improvements to be placed thereon by the party of the second part, all such freight to be subject to all reasonable charges which may from time to time be made thereon, by the party of the second part, for the use of such property and improvements for such purposes, at the expiration of this lease.

The party of the first part to pay the said party of the second part the reasonable value of all the improvements then on said piece or parcel of land hereby leased.

IN WITNESS WHEREOF; the said parties of the first and second part have by Resolutions of their respective Boards of Directors duly passed, caused these presents to be subscribed by their respective Presidents and Secretaries, and their respective Corporate Seals to be hereto attached, the date first above written.

BEN HOLLADAY

President Oregon Central Railroad Co.

C. S. DYER

Secretary Oregon Central Railroad Co.

A. G. CUNNINGHAM

President Portland Warehouse & Dock Co.

C. S. DYER

Secretary Portland Warehouse & Dock Co.

In presence of
J. N. Dolph
Laurence Higgins

State of Oregon)
) ss.
County of Multnomah)

Be it remembered that on this fifteenth day of January, in the year of our Lord, one thousand eight hundred and seventy two before me the undersigned a Notary Public in and for said County of Multnomah and State of Oregon, duly commissioned, sworn and fully qualified, personally appeared the above named Ben Holladay, President of the Oregon Central Railroad Company, and C. S. Dyer, Secretary of the Oregon Central Railroad Company, whose names are subscribed to the foregoing instrument, as parties thereto personally known to me to be the individuals described in and who executed the said instrument and they severally acknowledged to me that he, the said Ben Holladay, as President of the said Oregon Central Railroad Company, and he the said C. S. Dyer as Secretary of the said Oregon Central Railroad Company executed the same as and for the act and Deed of the said Oregon Central Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned, and the said C. S. Dyer being by me duly sworn did depose and say that he is the Secretary of the Oregon Central Railroad Company, and resides at the City of Portland, Multnomah County, in the State of Oregon: That he is the legal custodian of and is acquainted with the

Corporate Seal of said Company: That the Seal affixed to the within Lease is such Corporate Seal, that the same was so affixed by him as Secretary of said Company on the fifteenth day of January A. D. 1872, One thousand eight hundred and seventy two, by order of the Board of Directors of said Company, and that he signed his name as Secretary to said lease by the like order of said Board of Directors.

In Witness Whereof I have hereunto subscribed my name and affixed my Notarial Seal the day and year first above written.

I. R. MOORES,

(Notarial Seal)

Notary Public

State of Oregon)
) ss.
County of Multnomah)

Be it remembered that on this fifteenth day of January in the year of our Lord (1872) One thousand eight hundred and seventy two, before me, the undersigned, a Notary Public in and for the said County of Multnomah, and State of Oregon duly commissioned, sworn and fully qualified personally appeared the above named A. G. Cunningham, President of the Portland Warehouse and Dock Company, and C. S. Dyer, Secretary of the Portland Warehouse and Dock Company, whose names are subscribed to the foregoing instrument as parties thereto personally known to me, to be the individuals described in and who executed the said instrument, and they severally acknowledged to me that he the said A. G. Cunningham, President of the said Port-

land Warehouse & Dock Co'y, and he the said C. S. Dyer as Secretary of the said The Portland Warehouse and Dock Company, executed the same as and for the act and deed of the said The Portland Warehouse and Dock Company freely and voluntarily, and for the uses and purposes therein mentioned, and the said C. S. Dyer, being by me duly sworn did depose and say, that he is the Secretary of the Portland Warehouse and Dock Co'y and resides at the City of Portland, Multnomah County, in the State of Oregon: That he is the legal custodian of and is acquainted with the Corporate Seal of said Company: That the Seal affixed to the within lease is such Corporate Seal; that the same was so affixed by him as Secretary of said Company on the Fifteenth day of January A. D. (1872) One thousand eight hundred and seventy two, by order of the Board of Directors of said Company, and that he signed his name as Secretary to said Lease by the like order of said Board of Directors.

In Witness Whereof I have hereunto subscribed my name and affixed my Notarial Seal the day and year first above written.

I. R. MOORES,

(Notarial Seal)

Notary Public

Office of the Oregon Central Railroad Company,

Portland February 6, 1872

Pursuant to call of Vice President acting in absence of President, The Board of Directors met at their office

this day at ten o'clock A. M.

Present, W. L. Halsey, Vice President, Meur. Scott, Crawford, Cornelius and Weidler, Directors.

The meeting being called to order and Mr. T. R. Gaston invited to be present, the claims of Meur. Ainsworth, Reid and Thompson was presented, when after some discussion, Mr. Ainsworth not being able to attend as requested by the Board of Directors, the Board adjourned to meet again, Wednesday morning 7th inst at 10 o'clock.

C. S. DYER,
Secretary

W. L. HALSEY,
Vice Pres.

Office, Oregon Central Railroad Co.

Portland February 7, 1872

Pursuant to adjournment the Board of Directors met at the office of the Company at 11 A. M.

Present, W. L. Halsey, vice president, Directors Scott and Crawford.

There being no quorum present the Board adjourned sine die.

C. S. DYER,
Secretary

W. L. HALSEY,
Vice President

Office Oregon Central R. R. Co.

Portland February 9, 1872

Pursuant to call by personal notice the Board of Directors of this Company met at their office this day at 11 o'clock A. M. Present, W. L. Halsey, Vice Presi-

dent, Directors Weidler, Crawford & Scott.

The reading of the minutes having been dispensed with Mr. Weidler offered the following Resolutions, which after being read and motion made and seconded was unanimously adopted, viz:

Whereas a proposition has been made to this Corporation by a London Syndicate of Capitalists, represented in San Francisco by Milton S. Latham of the London and San Francisco Bank, Limited, as follows:

Said Syndicate will at once loan for one year Five Hundred Thousand Dollars Gold, at an annual interest of Ten per Cent, payable quarterly. They will next Summer advance as the road is built to McMinnville, and for the sole purpose of building to that point, Five Hundred Thousand Dollars Gold more at the same rate of interest, and said interest payable in like manner,

The above loans to be secured by depositing in the hands of said Milton S. Latham, all the First Mortgage Bonds of this Railroad Corporation, aggregating \$4,395,000.

The Syndicate is to have for two years from this date the exclusive option of selling the said First Mortgage Bonds for the highest price, for which it is to receive a commission of (5) Five per Cent on the Par Value of said Bonds, the proceeds less Commission to go for the benefit of the Road.

Now therefore be it Resolved: That said offer be accepted, and the President and Secretary under the Seal of this Corporation, are hereby authorized to sign

any agreement and notes to carry into execution said contract, and bind this Corporation to repay said offered loan or loans with the proposed interest and to hypothecate the First Mortgage Bonds of this Corporation under the terms stated.

There being no further business presented on motion made and seconded the meeting adjourned to meet on call.

C. S. DYER,
Secretary

W. L. HALSEY,
Vice President

COPY OF NOTE

\$500,000

Portland, Oregon February 1872

One year after date, without grace, The Oregon Central Railroad Company promises to pay to the order of Ben Holladay, President, in San Francisco, the sum of Five Hundred thousand Dollars in Gold Coin of the United States for Value received, with interest from date until paid, at the rate of Ten per Cent per annum payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Trustees of said Railroad, passed 9th February 1872.

Witness our hands under the Seal of the said Corporation on this the day of February A. D. 1872.

BEN HOLLADAY,

President of the Oregon Central R. R. Co.

C. S. DYER

Secretary of the Oregon Central Railroad Co.

Office Oregon Central R. Road Co.

Portland, Ore February 14, 1872

Pursuant to Bye-Laws of this Company, the regular monthly meeting was held this day.

No business offering the meeting adjourned sine die.

C. S. DYER,

Secretary

Office, Oregon Central Railroad Co.

Portland, Ore March 13, 1872

Pursuant to Bye-Laws of this Company, the regular monthly meeting was held this day. No business offering, the meeting adjourned sine die.

C. S. DYER,

Secretary

Office of the Oregon Central R. R. Co.

Portland, Ore April 10, 1872

Pursuant to Bye-Laws the monthly meeting of this Company was held at their office this day at 11 o'clock A. M.

Present: Ben Holladay, President, Meur. Halsey, Weidler, Scott, Crawford and Mitchell, Directors.

Upon the meeting being called to order and the reading of the minutes dispensed with;

On motion of Col. T. R. Cornelius, seconded by Mr. Weidler, the following resolution after being read was unanimously adopted, viz:

Resolved: That the President and Secretary of this

Company be, and they are hereby instructed to make, execute, and deliver in the name of this Company to Thos. R. Cornelius a Deed of Conveyance for the following described Real Estate lying in Washington County, Oregon, to wit:

The southeast quarter of Section Thirty (30) in Township No. one (1) South Range No. one (1) West, containing one hundred and sixty acres, more or less, and further;

Resolved, That all conveyances heretofore made by this Company to said Thos. R. Cornelius for Real Estate be and they are hereby confirmed.

On motion of Mr. Halsey, seconded by Mr. Crawford, the following Resolution after being read, was unanimously adopted, viz: Resolved, That the Secretary of this Company give public notice by publication requesting all persons holding what purports to be Freight or Passenger Certificates of this Company to present the same, either to Thomas R. Cornelius at Cornelius, Washington County, or to the Secretary of this Company at the office of this Company within thirty days of this date, and upon the presentation thereof, said Secretary and T. R. Cornelius are hereby instructed to take a memorandum of each one, the amounts, owner, and how obtained, and report the same to this Company.

There being no further business, on motion the meeting adjourned.

C. S. DYER,
Secretary

BEN HOLLADAY,
President

Office, Oregon Central R. R. Co.

Portland, Ore May 11, 1872

At the call of the President, a meeting of this Company was held at their office, this day at 11 o'clock A. M.

Present, Ben Holladay, President, Meur. Halsey, Weidler, Scott, Mitchell and Crawford, Directors.

Upon meeting being called to order, and the reading of the minutes of last meeting dispensed with;

On motion of Mr. Mitchell, seconded by Mr. Halsey, it was

Resolved: That the permanent junction of the Oregon Central Railroad with the Oregon and California Railroad be and the same is hereby permanently established at Junction City, Lane County, Oregon, on the following described tract of land, to wit;—

Beginning at the intersection of the north line of Fourth Street in Junction City, in said County and State, with the East line of Front Street, thence easterly along the said north line of Fourth Street to the intersection of the east line of Elm Street, thence northerly and along the east line of Elm Street, to the intersection of the North line of Eighth Street extended, thence westerly, and along the extension of said north line of Eighth Street to a point thirty feet (30) westerly of the Centre line of the side track of the Oregon and California Railroad as the same is platted and recorded on the Records of same County, Thence northerly and parallel with said side track to where it joins the main track of said railroad. Thence northerly and parallel with the Center

line Thirty (30) feet distant therefrom to the intersection of the south line of Seventeenth Street, Thence westerly along the south line of Seventeenth Street to the intersection of the east line of Greenwood Street, thence southerly and along the east line of Greenwood Street to the intersection of the North line of Eighth Street, Thence Easterly and along the North line of Eighth Street, to the east line of Front Street, thence Southerly, and along the east line of Front Street to the place of beginning, containing Twenty six (26) acres, more or less.

And it was further Resolved: That this Company conjointly with the Oregon and California Railway Company purchase of James G. Hughes the land above described for such purposes, and enter into an agreement under the Corporate Seal of this Company with said Jas. G. Hughes binding this Company to make such grounds such permanent junction, and to locate its permanent machine shops on the same.

And the President and Secretary of this Company are hereby authorized and instructed to enter into such agreement of purchase upon such terms.

There being no further business before the Company, the meeting was adjourned.

C. S. DYER,
Secretary

BEN HOLLADAY,
President

Office Oregon Central R. R. Co'y

Portland, Ore May 8th., 1872

Pursuant to the Bye-Laws of this Company, the regular Monthly meeting was held this day. No quo-

rum present the meeting was adjourned.

C. S. DYER,
Secretary

STOCKHOLDERS ANNUAL MEETING

Office, Oregon Central R. R. Co.

Portland, Oregon May 23, 1872

In pursuance of the Bye-Laws of this Company, and ten days written notice having been given, the Stockholders of this Company met at their office in Portland, Oregon, this 23rd day of May A. D. 1872 at 11½ o'clock A. M.

The President Ben Holladay in the Chair. The meeting having been called to order, the Secretary filed a certified Copy of List of Stockholders as appeared on the Stock Ledger of the Company this day.

Thereupon the Stockholders present representing 46,173 shares of the Company proceeded to cast their ballots for the election of Seven Directors to serve for the ensuing year, resulting as follows:—

Ben Holladay	received	46,173	votes
W. L. Halsey	“	46,173	“
Geo. W. Weidler	“	46,173	“
J. H. Mitchell	“	46,168	“
H. W. Scott	“	46,173	“
M. Crawford	“	46,173	“
T. R. Cornelius	“	46,152	“
S. G. Reid	“	21	“

The following named persons having received a majority of all the shares of Stock in the Company, viz: Ben Holladay, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, M. Crawford, H. W. Scott and T. R. Cornelius were declared by the President of the Company to be duly elected as Directors to serve the Company for the next ensuing year,

And thereupon the said President signed and filed with the Secretary of the Company, a certificate as follows:

State of Oregon)
	) ss.
County of Multnomah)

Portland May 23, 1872

I, Ben Holladay, President of the Oregon Central Railroad Company do hereby certify that at the Annual meeting of the Stockholders of said Company for the purpose of electing a Board of Directors, this day held at the Company's office in the City of Portland, the following persons to wit:

Ben Holladay, W. G. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum Crawford, H. W. Scott, T. R. Cornelius having received a majority of all the votes cast at said election and a majority of the shares of the Capital stock of said Company, cast by said Stockholders at such election for Directors, they are hereby declared to be duly elected as Directors of the Oregon Central Railroad Company for the ensuing year.

Signed, BEN HOLLADAY
President Oregon Central R. R. Co.

Upon motion the meeting then adjourned.

C. S. DYER,	BEN HOLLADAY
Secretary	President

State of Oregon)
	) ss.
County of Multnomah)

I, Ben Holladay being first duly sworn say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon for the term for which I have been elected. So help me God.

Signed, BEN HOLLADAY

Subscribed and sworn to before me this 13th day of June A. D. 1872.

	I. R. MOORES,
(Notarial Seal)	Notary Public

State of Oregon)
	) ss.
County of Multnomah)

I, W. L. Halsey, being first duly sworn, say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

Signed, W. H. HALSEY

(Notarial Seal) Subscribed and sworn to before

me this 13th day of June A. D. 1872.

I. R. MOORES,
Notary Public

State of Oregon)
County of Multnomah) ss.

I, Geo. W. Weidler, being first duly sworn, say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

Signed, GEO. W. WEIDLER

Subscribed and sworn to before me this 13th day
of June A. D. 1872.

I. R. MOORES,
Notary Public

State of Oregon)
County of Multnomah) ss.

I, John H. Mitchell, being first duly sworn say that I will faithfully and honestly perform and discharge the Duties of a Director of the Oregon Central Railroad Company, of Portland, Oregon, for the time for which I have been elected, so help me God.

Signed, JOHN H. MITCHELL

Subscribed and sworn to before me this 13th day
of June A. D. 1872.

(Notarial Seal)

I. R. MOORES,
Notary Public

State of Oregon)
) ss.
County of Multnomah)

I, Medorum Crawford, being first duly sworn, say that I will faithfully and honestly perform and discharge the Duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

(Notarial Seal) Signed, M. CRAWFORD

Subscribed and sworn to before me this 13th day of June 1872.

I. R. MOORES,
Notary Public

State of Oregon)
) ss.
County of Multnomah)

I, H. W. Scott, being first duly sworn, say that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

 Signed, H. W. SCOTT
(Notarial Seal)

Subscribed and sworn to before me this 13th day of June 1872.

I. R. MOORES,
Notary Public

State of Oregon)
) ss.
County of Multnomah)

I, T. R. Cornelius being first duly sworn say that

I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term for which I have been elected, So help me God.

Signed, T. R. CORNELIUS

Subscribed and sworn to before me this 13th day of June 1872.

I. R. MOORES,

(Notarial Seal)

Notary Public

Office Oregon Central Railroad Co.,

Portland, Ore June 12, 1872

Pursuant to the Bye-Laws of this Company notice was sent to the old Board of Directors of the regular Monthly meeting, to be held this day 11 o'clock A. M. No quorum being present the meeting adjourned to Thursday, June 13, 1872, at one and one half o'clock P. M.

(Not signed) President

C. S. DYER, Secretary

Office of the Central Railroad Co.,

Portland, Oregon June 13, 1872

Pursuant to adjournment the New Board of Directors met at half past one o'clock P. M. and qualified such Directors by taking and subscribing the oath of office as appears on record, on the preceding pages of this Book.

Present Meur. Ben Holladay, W. L. Halsey, Geo. W. Weidler, J. H. Mitchell, Medorum Crawford, H. W. Scott and T. R. Cornelius.

The Board proceeded to organize by calling Mr. Halsey to the Chair.

On motion of Mr. J. H. Mitchell, seconded by Mr. Scott, Mr. Ben Holladay was put in nomination for President, there being no opposing candidate named, the vote was proceeded with, and Mr. Holladay having received the entire vote was declared unanimously elected President of the Company for the ensuing year.

On motion of Mr. M. Crawford, seconded by Mr. Scott, Mr. W. L. Halsey was put in nomination for Vice President, there being no opposing candidate named, the vote was proceeded with and Mr. Halsey having received the entire vote was declared unanimously elected Vice President of the Company for the ensuing year.

On motion of Mr. Holladay seconded by Mr. Mitchell, Mr. C. S. Dyer was put in nomination for Secretary, there being no opposing candidate named, the vote was proceeded with, and Mr. Dyer having received the entire vote was declared unanimously elected Secretary of the Company for the ensuing year.

The Secretary then read a Report in compliance with a Resolution adopted April 10, 1872 relative to the Number of Passenger and Freight certificates issued by the old Company now outstanding, which report was accepted and placed on the file. No further business offering, the meeting adjourned sine die.

C. S. DYER,

Secretary

(Not signed)

President

Copy of Notes sent to Wm. Norris, June 19, 1872 the same being for monies advanced by the London and San Francisco Bank, on account of the Oregon Central Railroad Company.

Portland, Oregon 29th May 1872

\$60,000. One year after date without grace, The Oregon Central Railroad Company promises to pay to the order of Mr. Ben Holladay, President in San Francisco the sum of Sixty thousand Dollars in Gold Coin of the United States, for value received with interest from date until paid at the rate of Ten per cent per annum, payable quarterly in like gold coin.

— This note is executed in pursuance of a Resolution of the Board of Directors of said Railroad, passed 9 February 1872.

BEN HOLLADAY

President Oregon Central R. R. Co.

(Corporate Seal)

C. S. DYER

Secretary Oregon Central R. R. Co.

Endorsed Ben Holladay, President.

\$35,000

Portland, Oregon 7 June 1872

One year after date, without grace, the Oregon Central Railroad Company, promises to pay to the order of Mr. Ben Holladay, President, in San Francisco, the sum of Thirty five thousand Dollars in Gold Coin of the United States for Value received, with interest from date until paid, at the rate of ten per cent per annum, payable quarterly in like Gold Coin.

This note is executed in pursuance of a Resolution of the Board of Directors of said Railroad, passed 9 February 1872.

Witness our hands under the seal of the said Corporation on this the 7th day of June A. D. 1872.

BEN HOLLADAY

President Oregon Central R. R. Co.

(Corporate Seal)

C. S. DYER

Secretary Oregon Central R. R. Co.

Endorsed Ben Holladay, President.

\$25,000

Portland, Ore 12th June 1872

One year after date, without grace, The Oregon Central Railroad Company, promise to pay to the order of Mr. Ben Holladay, President in San Francisco, the sum of Twenty Five Thousand Dollars in Gold Coin of the United States for value received with interest from date until paid at the rate of Ten per cent per annum, payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Directors of said Railroad passed 9th February 1872.

Witness our hands under the Seal of the said Corporation on this 12th day June A. D. 1872.

BEN HOLLADAY

President Oregon Central R. R. Co'y

(Corporate Seal)

C. S. DYER

Secretary Oregon Central R. R. Co'y

Endorsed, Ben Holladay, President.

4550

O. & C. R. R. Co., et al.

\$50,000

Portland, Oregon June 24, 1872

One year after date without grace, The Oregon Central Railroad Company promise to pay to the order of Mr. Ben Holladay, President, in San Francisco, the sum of Fifty thousand Dollars in Gold Coin of the United States for Value received with interest from date, until paid, at the rate of ten per cent per annum, payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Directors of said Railroad passed 9th February 1872.

Witness our hands under the Seal of the said Corporation on this the 24th day of June A. D. 1872.

BEN HOLLADAY

President Oregon Central R. R. Co.

(Corporate Seal)

C. S. DYER

Secretary Oregon Central R. R. Co.

Endorsed Ben Holladay, President.

\$55,000

Portland, Oregon July 1, 1872

One year after date, without grace, The Oregon Central Railroad Company promise to pay to the order of Mr. Ben Holladay, President in San Francisco, the sum of Fifty Five thousand Dollars in Gold Coin of the United States for value received with interest from date until paid at the rate of Ten per cent per annum payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Directors of said Railroad passed 9

February 1872.

Witness our hands under the seal of the said Corporation on this the first day of July A. D. 1872.

BEN HOLLADAY,
President O. C. R. R. Co.

(Corporate Seal) C. S. DYER,
Secy. O. C. R. R. Co.

Endorsed by Ben Holladay, President.

Office Oregon Central R. R. Co.

Portland, July 10th 1872

Pursuant to Bye-Laws, the regular monthly meeting was called this day at 11 o'clock A. M. There not being a quorum present the meeting was adjourned.

C. S. DYER
Secretary

\$50,000

Portland, Oregon 16 July 1872

One year after date without grace The Oregon Central Railroad Company promise to pay to the order of Mr. Ben Holladay, President in San Francisco the sum of Fifty thousand Dollars in Gold Coin of the United States for value received with interest from date until paid at the rate of ten per cent per annum payable quarterly in like Gold Coin.

This note is executed in pursuance of a Resolution of the Board of Directors of said Railroad, passed 9 February 1872.

Witness our hands under the Seal of the said Cor-

puration on this the 16th day of July A. D. 1872.

BEN HOLLADAY,
President O. C. R. R. Co.

(Corporate Seal) C. S. DYER,
Secretary, Oregon Central R R Co

\$30,000 Portland, Oregon 23rd July 1872

One year after date without grace the Oregon Central Railroad Company promise to pay to the order of Mr. Ben Holladay, President in San Francisco the sum of Thirty Thousand Dollars in Gold Coin of the United States for Value received, with interest from date until paid, at the rate of Ten per cent per annum payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Directors of said Railroad passed 9th January 1872.

Witness our hands under the Seal of the said Corporation on the 23rd July A. D. 1872.

BEN HOLLADAY
President Oregon Central RR Co.

(Corporate Seal) C. S. DYER
Secretary Oregon Central R R Co.

Endorsed Ben Holladay, President.

Office Oregon Central R. R. Co.

Portland, Ore August 14, 1872

Pursuant to Bye-Laws the regular monthly meet-

ing was called this day at 11 A. M. A quorum not being present the meeting adjourned.

C. S. DYER,
Secretary

\$500,000 Portland, Oregon 29th August 1872

One year after date, without grace The Oregon Central Railroad Company promise to pay to the order of Mr. Ben Holladay President, in San Francisco, the sum of Five Hundred Thousand Dollars in Gold Coin of the United States, for value received with interest from date, until paid at the rate of Ten per cent per annum, payable quarterly in like Gold Coin.

This Note is executed in pursuance of a Resolution of the Board of Directors of said Railroad passed 9th February 1872.

Witness our hands under the seal of the said Corporation on this the 29th day of Augt. 1872.

BEN HOLLADAY

President Oregon Central R. R. Co.

(Corporate Seal)

C. S. DYER,
Secretary Oregon Central R. R. Co.

Endorsed Ben Holladay, President.

Office Oregon Central R R Co.

Portland, Sept. 11, 1872

Pursuant to Bye-Laws, the regular monthly meeting was called this day at 11 oc'clock A. M. A quorum

not being present the meeting adjourned.

C. S. DYER,
Secretary

Office Oregon Central Railroad Com'y

Portland October 9th 1872

Pursuant to Bye Laws the regular monthly meeting was called this day at 11 o'clock A. M. A quorum not being present, the meeting was adjourned.

C. S. DYER,
Secretary

Office Oregon Central Railroad Com'y

Portland Nov. 13, 1872

Pursuant to Bye Laws the regular monthly meeting was called this day at 11 o'clock A. M.

A quorum not being present the meeting adjourned.

C. S. DYER,
Secretary

Office Oregon Central Railroad Company

Portland 11 Dec. 1872

Pursuant to Bye Laws the regular meeting was called this day at 11 o'clock A. M. A quorum not being present the meeting adjourned.

C. S. DYER,
Secretary

Office of the Oregon Central R R Co.

Portland Oregon Dec 24th 1872

Pursuant to the call of the President, the Board of Directors of this Company met at the Company's office this day.

Present; Directors Mitchell, Weidler, Scott and Crawford. On motion of Mr. Weidler, Mr. Mitchell was elected President pro tem, and J. Gaston, Secy pro tem.

The President then laid before the Board the resignation of W. L. Halsey as Vice President and Director of this Company, as follows:

“San Francisco Dec. 18th 1872

To Ben Holladay, Prest.

I hereby resign as Vice President and Director of the Oregon Central Railroad Company.

W. L. HALSEY.”

Which resignation on motion of Mr. Weidler, was received and accepted.

The President then laid before the Board the resignation of C. S. Dyer as Secretary of the Company, as follows:

“Dec 17th 1872 Portland, Oregon

To Ben Holladay, Esq., Prest. O. C. R. R. Co.

Dear Sir: I herewith tender my resignation as Secretary of the Oregon Central Railroad Company, to take effect from this date.

Yours respectfully,

C. S. DYER"

Which resignation, on motion, was received and accepted. Arthur De Pourtales was then nominated, and elected by ballot a Director of this Company in place of W. L. Halsey, resigned, Mr. De Pourtales having taken the oath of office as follows:

State of Oregon)
	) ss.
Multnomah County)

I, Arthur De Pourtales, being first duly sworn say, that I will faithfully and honestly perform and discharge the duties of a Director of the Oregon Central Railroad Company, for the term for which I have been elected, so help me God.

A. DE POURTALES-GORGIER

Subscribed and sworn to before me this 24th day of Dec. 1872.

J. GASTON,

(Notarial Seal)

Notary Public

Was then elected by ballot Vice President of the Company in place of Mr. Halsey resigned.

J. Gaston was then nominated and elected Secretary of the Company in place of C. S. Dyer resigned.

On motion the Board then adjourned.

A. DE POURTALES-GORGIER

Vice President

J. GASTON

Secy pro tem

Office of the Oregon Central R R Co.

Portland, Oregon Jan. 8th 1873

Pursuant to the By Laws of the Company the regular monthly meeting of the Directors of this Company was called this day at 11 oc'lock A. M. and a quorum not being present the meeting adjourned.

A. DE POURTALES-GORGIER

Vice President

J. GASTON

Secy.

Office of the Oregon Central R R Co.

Portland, Oregon Feb. 12th 1873

Pursuant to the By-Laws of this Company, the regular monthly meeting was called for the Directors this day at 11 o'clock A. M. and a quorum not being present the meeting adjourned.

A. DE POURTALES-GORGIER

Vice President

J. GASTON

Secy.

Office of the Oregon Central Railroad Company,

Portland, Oregon March 12, 1873

Pursuant to the By-Laws of this Company, the regular monthly meeting of the Directors of this Company was called this day at 11 o'clock A. M.; and a quorum not being present the meeting adjourned.

A. DE POURTALES-GORGIER

Vice President

J. GASTON,

Secy.

Office of the Oregon Central R. R. Co.

Portland, Oregon March 24th 1873

The Board of Directors met at their office this day pursuant to the call of the Vice President.

Present: A. de Pourtales, Vice President, and Directors M. Crawford, H. W. Scott, and George W. Weidler and Secretary J. Gaston. The Secretary read the following resignation from J. H. Mitchell.

"Portland, Oregon Jan. 21st, 1873

Hon. Joseph Gaston, Secy O. C. R. R. Co.

Dear Sir: I herewith tender my resignation as one of the Directors of the Oregon Central Railroad Company.

Very respectfully,

Your obt. servt. J. H. MITCHELL"

Which resignation was on motion received and accepted.

Director Weidler then offered the following Resolution and stipulation, to wit;

"Resolved that the President and Secretary be directed to make and execute a contract or stipulation with Milton S. Latham, Esq. of San Francisco California in words and substance as follows, to wit: "In pursuance of a Resolution of the Board of Directors of

the Oregon Central Railroad Company, passed at their meeting of the 9th of Feb. 1872, the undersigned President and Secretary of the Oregon Central Railroad Company do hereby deposit with Milton S. Latham as collateral security for the payment of certain promissory notes, as follows, viz: one note for \$500,000 gold dated 29th of Feb. 1872, made by the Oregon Central Railroad Company to the order of and endorsed by Mr. Ben Holladay, President due Feb 28th 1873, and bearing interest from date at the rate of ten per cent per annum; and one note for \$500000 gold dated 29th of August 1872, made by the Oregon Central Railroad Company to the order of and endorsed by Mr. Ben Holladay President, due 29th of August 1873, and bearing interest from date at the rate of ten per cent per annum; which said notes are now held by said Milton S. Latham for account of owners. The following personal property of which the Oregon Central Railroad Company are owners, the same being at their risk and expense, to wit: all the First Mortgage Bonds of said Railroad Corporation, aggregating \$4,395,000 gold coin. Therefore in case of the non-payment of said promissory notes, or either of them, or of the interest thereon when due, we hereby appoint and constitute Milton S. Latham, his successors or assigns, our Attorney irrevocable, with power of substitution, to sell at any time, after said notes or either of them, or of the interest thereon when due, remains unpaid, with or without notice to us, the whole or any part of said security, either at public or private sale, at his discretion, the

proceeds to be applied to the payment of the aforesaid promissory notes, interest due, and commission on sales, any surplus after said payment to be held subject to our order. On payment of the aforesaid promissory notes and interest this agreement to be void, and the security mentioned to be returned to us. This hypothecation is executed in pursuance of the Resolution aforesaid.

Witness our hands under the seal of said Company this 24th day of March A D 1873.

(Signed by the President (Seal)

(Seal)

(Signed by the Secretary (Seal)

Which resolution was adopted. The Board then adjourned.

A. DE POURTALES-GORGIER

Vice Pres.

J. GASTON,

Secretary

Office of the Oregon Central R R Co.

Portland, Oregon April 9th 1873

Pursuant to the By-Laws, the Board of Directors meeting for the month was this day called at their office. No quorum appearing the meeting adjourned.

J. GASTON,

Secretary

Office of the Oregon Central R R Co.

Portland, Oregon May 14th 1873

Pursuant to the By-Laws, the Board of Directors

regular meeting for month was called this day at their office, at the usual hour. No quorum appearing the meeting adjourned.

J. GASTON,
Secretary

Office of the Oregon Central R. R. Company

Portland, Oregon May 22nd 1873

Pursuant to the By-Laws and written notice served on the Stockholders, the annual meeting for the election of a Board of Directors was called this day at the office of the Company at 12 o'clock M. George H. Durham, Esq. Attorney, appeared for stockholder W. T. Newby, and asked to have filed, a Protest against any election of Directors this day, for the reasons given, in his former Protest of Aug. 13th 1870, and that, as he alleges, the annual election cannot be held on the 4th Thursday of May, that the Present acting Directors have not been lawfully elected, and that J. Gaston is not the lawful Secretary, and Ben Holladay is not the lawful President, that the present acting Board of Directors have been guilty of fraud and conspiracies against the rights of the Stockholders and have wasted the Company's property, and are grossly mismanaging its railroad and violating its Charter and that they were elected by spurious stock which has never paid any assessments. Mr. Durham also presented the protest against an election by stockholder James H. Gaunt, similar to Newby's.

Mr. Gilbert appeared as the Agent of G. W.

Vaughn and demanded a certificate for five shares paid up stock.

Stockholder A C Brown appeared and proposed to sell his ten shares of stock to the Company.

The roll of stockholders was then called, and it appearing that there was no quorum present, only sixteen shares answering to the call, the Secretary postponed the election until Tuesday June 24th at one o'clock P. M.

J. GASTON,

Secy

Office of the Oregon Central Railroad Co.

June 11th 1873 Portland, Oregon

Pursuant to the by-Laws the regular monthly meeting of the Board of Directors was this day called at 11 o'clock A. M. and their being no quorum present the meeting was adjourned.

J. GASTON,

Secretary

Office of the Oregon Central R R Co.

Portland, Oregon June 24th 1873

Pursuant to the By-Laws, and in pursuance of an adjournment from the 22nd day of May 1873, the regular annual day for the election of Directors, the Stockholders met this day for the purpose of electing seven Directors to serve for the ensuing year. The President being present took the chair, called the meeting to order, and the Secretary called the roll of Stockholders as follows:

Names	Shares
Milton S Latham, Trustee.....	26000
Wm. Norris	20015
Wm. L. Halsey	2501
G. W. Weidler	492 ⁵ / ₈
A. de Pourtales	81
Ben Holladay	46
M. M. Melvin	5
Wm. T. Newby	13
W. C. Whitson	1
J. M. Belcher	1
B. F. McLench	1
Thos H. Tongue	11 ¹ / ₂
Jno S Griffin	11 ¹ / ₂
D. O. Quick	6
Alvarez Matteson	8
Norman Martin	5
David McDonald	9
Stephen Black	8
Thomas Hart	5
Hyer Jackson	28
C. A. Westfall	16
H. B. Tucker	6
Jacob Halstead	1
Payton Wilkes	2
Jabez Wilkes	1
Albert Simpson	1
C. A. Reynolds	4
S H Marsh	11 ¹ / ₈
Wm. Campbell	32

Names	Shares
L. Patterson	2
Oliver Clay	2
Edward Constable	1
W W Catching	4
Henry Sewell	1
Mrs. Mauzey	2
Philemon S Field	5
Henry Buxton	10
A C Brown	10
W. Balora	1
J. R. Boyce	$\frac{1}{2}$
Eliza Best	$7\frac{1}{4}$
J. S. Brugger	20
Margaret A. Conklin	20
Kenyon Crandall	2
T R Cornelius	5
D C Lewis	5
C. Bills	5
A. B. Hallock	5
J. S. Smith	5
W. Lair Hill	10
Ladd & Tilton	5
F. Dekum	5
Jacob Kamm	5
A. H. Johnson	5
T. J. Carter	10
Anderson Ennis	1
Elkanah Walker	2
Jno J. Gerrish	1

Names	Shares
Frances A Bailey	2
S A Holcomb	10
Joseph Leonard	4
W R Barret	12
Robt Walker	8
John Harrison	10
Joseph E. Sedlak	100
Charles McKenny	7 $\frac{1}{2}$
George W Elberts	18
Walter Moffat	5
E J Northrup & Co.....	5
J A Fisher	15
Wiberg & Strowbridge	5
C A Burchardt	5
R R Thompson	5
Couch & Flanders	5
E Milwain	5
T M Johns	24 $\frac{1}{2}$
J. B. Newby	10
J. M. Ritchey	15
B. E. Stewart	2
D. C. Stewart	2
Thos. Standley	26
Wm. Ball	2
J. Gaston	1
M. Crawford	1
J. N. Dolph	1
Jno M. Breck	5
J. Mysick	5

Names	Shares
J. C. Ainsworth	6
Joe Teal	5
S. G. Reed	5
McCraken Merrill & Co.....	5
Labbe Bros.	5
Emil, Lowenstine & Co.....	5
Wm. Cree	5
J. W. Ladd	5
G. W. Vaughn	5
David Monnastes	5
S. M. Smith	1
C. S. Silver	1
H. W. Scott	1
J. W. Watts	1
S. C. Adams	2
G. W. Burnett	4
Jesse C. Moore	1

The following named stockholders answered to their names and voted: Milton S. Latham, Trustee, by Ben Holladay, proxy; Wm. Norris by Ben Holladay proxy, George W. Weidler, M. Crawford, J. N. Dolph & H. W. Scott.

Upon counting out the ballots it was found that the whole number of votes cast was forty six thousand five hundred and forty six and $\frac{5}{8}$ votes; and the following named persons, to wit: Ben Holladay, George W. Weidler, H. W. Scott, M. Crawford, T. R. Cornelius, W. L. Halsey and J. Gaston each received said last number of votes for the offices of Directors of said

Companies; and on motion it was resolved that they be declared duly elected the Directors of this Company for the next ensuing year, and the President directed to certify their elction.

State of Oregon)
Multnomah County) ss.

Portland, Oregon June 24th 1873

I, Ben Holladay, President of the Oregon Central Railroad Company, do hereby certify that at an election for Directors this day held at the office of said Company in this City, each of the following persons to wit: Ben Holladay, G. W. Weidler, H. W. Scott, M. Crawford, T. R. Cornelius, W. L. Halsey and J. Gaston each received 46546⁵/₈ votes for the office of Director in said Company, and I hereby declare the said named persons to be duly elected Directors of said Company for the next ensuing year.

BEN HOLLADAY,
Prest.

On motion the meeting then adjourned.

J. GASTON, BEN HOLLADAY,
Secy. Prest.

[illegible]

Portland, Oregon June 24th 1873

I, Ben Holladay, and I, H. W. Scott, and I, G.

W. Weidler, and I, M. Crawford, and I, J. Gaston, and I, T. R. Cornelius, and I, W. L. Halsey, do solemnly swear that I will faithfully and honestly discharge the duties of a Director of the Oregon Central Railroad Company for the term of office for which I have been elected, so help me God.

BEN HOLLADAY
M. CRAWFORD
J. GASTON

Subscribed and sworn to before me this 24th day of June 1873.

Witness my hand and Notarial Seal.

I. R. MOORES,
(Notarial Seal) Notary Public

Office of the Oregon Central Railroad Co.

Portland, Oregon June 24th 1873

In pursuance of the By-Laws and upon the call of the President, the newly elected Directors met this day at the office of the Company for the election of officers and other business: Present, Ben Holladay, H. W. Scott, T. R. Cornelius, G. W. Weidler, M. Crawford and J. Gaston. H. W. Scott was called to the Chair, and J. Gaston made Sec. pro tem.

On motion of M. Crawford the following persons were nominated for the offices set opposite their names, and unanimously elected.

Ben Holladay.....President
W. L. Halsey.....Vice President
J. Gaston.....Secretary

By laws Amend- ed.) H. W. Scott offered the following Reso- lution, which was unanimously adopted.

Resolved, that By-Law No. 2 (or the Second) be amended so as to read as follows:

“The officers of the Board shall be a President, Vice-President, Secretary, and Treasurer, who shall be elected by the Directors at their first meeting after the annual election to serve for one year, and until their successors are elected and qualified.”

A. G. Cunningham was then put in nomination and elected Treasurer of the Company.

On motion the Board then adjourned.

J. GASTON, BEN HOLLADAY,
Secy. Prest.

Office of the Oregon Central Railroad Company,

Portland, Ore Sept. 1 1873

Pursuant to a call of the President the Board of Directors met this day at their office at half past three o'clock P. M. Present, The President Ben Holladay in the Chair, J. Gaston, Secretary, and Directors Crawford, Cornelius, Scott, Weidler and Halsey.

Mr. Crawford offered and moved the adoption of the following preamble and resolutions: viz;

“Whereas this Company is indebted to divers persons and firms in Europe, for which indebtedness bonds of this Company have been and are hypothecated pledged and held as collateral security, and whereas at the request of Ben Holladay, Esq. President of this Company, said creditors have lately sent their Agents to this State, who have examined into the management of this Company, its financial condition, and the condition and management of its property, for the purpose of reporting the same to said creditors, with a view to some arrangement between this Company and its said creditors; and whereas it is necessary that some arrangement should be made between this Company and its creditors for the reduction of interest upon said indebtedness, for an extension of the time of payment of said indebtedness, and for the redemption of said Bonds held as collateral security as aforesaid, and for the payment of the indebtedness of this Company, and the payment and cancellation of its Bonds; and whereas it is desirable that such negotiations should be prosecuted in Europe, and so far as possible, there consummated; and whereas for that purpose it is necessary that this Company should have in Europe an Agent and Attorney in fact with full power and authority in the premises; and whereas the interests of this Company require the presence here of its President and other officers; and whereas William Norris, Esq of the City of San Francisco in the State of California is familiar with the affairs of this Company, and a suitable person to act as such Attorney in fact;

NOW, THEREFORE be it RESOLVED: That William Norris, Esquire of the City of San Francisco, in the State of California be and he hereby is made constituted and appointed the true and lawful Attorney in fact of this The Oregon Central Railroad Company, a Corporation duly incorporated, organized and existing under the General Laws of Oregon, and having its principal office and place of business in the City of Portland, Oregon, for and in the name of this Company, and in its behalf, to proceed to the Continent of Europe, and there or elsewhere, except in the State of Oregon, to settle and adjust all claims, accounts and demands, now subsisting or which may hereafter subsist between this Company and any and all persons firms or Corporations whatsoever, and to compound for any and all debts dues or demands owing to or by this Company, and to agree for the same in such manner and on such terms as he in his discretion may deem proper and to borrow money for the use of and in the name of this Company upon such terms and interest as he may deem advisable, and as security for the repayment of the same, to mortgage and pledge any and all of the real personal and mixed estate of this Company or any part thereof, and negotiate and agree for the issue and sale of the Bonds and other evidences of indebtedness of this Company, and especially to negotiate and agree with the Bondholders of this Company their Agents and Trustees for a reduction of interest on Bonds heretofore issued by this Company, and to agree for such rate of interest on the said Bonds of this Company, as

to him shall seem meet and proper; to negotiate and agree for the cancellation and surrender of said Bonds upon the issue of other Bonds of this Company, in lieu thereof, of such denominations, in such amounts, payable in such times, and bearing such interest as he shall deem for the best interests of this Company, to be secured in such manner as he shall deem advisable, or if he shall deem it advisable to negotiate and agree for the payment and cancellation of said Bonds by the sale, transfer and conveyance of any or all the property rights and franchises of this Company, or otherwise, and to negotiate for the sale of, mortgage, pledge, transfer and deliver any or all the bonds of this Company, and to negotiate for the sale of, mortgage, pledge transfer and deliver any and all Bonds of this Company which may be hereafter issued, and to negotiate for and agree upon the redemption of any and all Bonds of this Company, hypothecated to or held in pledge, or held in any manner, as security by any person or persons, firms or corporations for loans to this Company or otherwise, and to redeem any and all such Bonds upon such terms and in such manner as he shall think best; and to sell, mortgage, pledge, and to convey, transfer and deliver the Railroad with the appurtenances and rolling stock and other property of this Company, both real, personal and mixed, upon such terms and to such persons, firms or corporations as he shall see fit, and for such sums as he shall deem advisable; and for any or all of these purposes, to make execute and deliver, mortgages, transfers, Bills of Sale, deeds and other writings, in the name

of this Company, and any compromises, compositions, agreements or contracts by deed or otherwise in his opinion necessary or expedient in the premises, and generally to do and perform all matters and things, transact all business make, execute and acknowledge all contracts, orders, deeds, writings, assurances and instruments which may be requisite or proper to effectuate all or any of the premises or any other matter or thing appertaining or belonging to this Company, with the same powers, and to all intents and purposes, with the same validity as if done or executed by this Company.

Resolved, further, That the President and Secretary of this Company do execute and deliver to said William Norris a Power of Attorney embodying the power and authority hereby granted him in the name of this Company and under "its corporate seal."

Which motion being seconded by Mr. Halsey was put and unanimously adopted.

On motion of Mr. Halsey the Board then adjourned.

J. GASTON,

BEN HOLLADAY,

Secy.

Prest.

Office of the Oregon Central R. R. Co.

Portland, Oregon Nov. 5, 1873

Pursuant to a call of the President, a Special meeting of the Board of Directors of this Company was held this day at their office at 2 o'clock P. M.

Present: the President Ben Holladay in the Chair, and Directors Halsey, Weidler, Scott, Crawford and Gaston.

On calling the meeting to order, the following proceedings were had: Resolved: That from and after this date no pass for free travel over the Oregon Central Railroad shall be issued to any person whatever, except to Directors, officers Agents and employes: Passed unanimously.

Resolved: 2nd That the President or Superintendent of this Company be authorized to issue exchange Passes, in their discretion, to officers of other Railway Companies. Adopted.

On motion Board then adjourned.

J. GASTON,

Secy.

BEN HOLLADAY,

Prest.

Office of the Oregon Central R R Company

Portland, Oregon Jan 3rd 1874

Pursuant to call of the President, a special meeting of the Board of Directors of this Company was held this day at eight o'clock P. M. at their office. Present, The President Ben Holladay in the chair, and directors Halsey, Scott, Weidler and Cornelius. On motion the following resolution was unanimously adopted:

Resolved, that the Resolution of this Board passed Nov. 5th 1873, be amended by adding after the word "Company," "and such other persons as the President may deem to the interest of the Company."

On motion the Board then adjourned sine die.

BEN HOLLADAY, Pres.

J. GASTON, Secy.

Office of the Oregon Central R. R. Company

Portland, Oregon May 27th 1874

Pursuant to the call of the Vice President, the Board of Directors of the Oregon Central Railroad Company met this day at their office in the City of Portland in special meeting. Present Directors Halsey, Scott, Crawford and Gaston. Vice President Halsey in the Chair.

Director Scott offered the following resolutions, which on motion were unanimously adopted, to wit:

“Whereas this Company, the Oregon Central Railroad Company of Portland, is unable for want of funds to pay the taxes assessed and levied against the Company in the Counties of Washington and Yamhill in the State of Oregon; and whereas the Road of this Company has been levied upon and advertised for sale in said Counties for said taxes, and unless payment thereof is made, will be sold, and additional costs and expenses incurred.

* * * Resolved: That this Company negotiate a loan of Milton S. Latham in the State of California, for the amount in gold coin sufficient to pay said taxes and costs and expenses accrued, payable upon demand, with interest from date at one per cent per month.

* * * Resolved: That for the payment of said loan, if the same shall be made, the net revenue of the Road of this Company be pledged and set apart monthly for the liquidation of the same, until the same is fully liquidated; and the Treasurer of this Company is hereby authorized and directed without further order to apply

all such net revenue monthly until such loan and interest is fully paid. * * *

Resolved: That the President and Secretary of this Company, be and they hereby are authorized and directed to execute in the name of this Company and under its corporate seal or otherwise, the promissory note of this Company, on the terms aforesaid, and such other instruments as shall be necessary or convenient to secure the payment of such loan and interest and the appropriation of the revenue of the Road of this Company to such payment "monthly, as aforesaid."

On motion the Board then adjourned.

W. L. HALSEY, Vice President

J. GASTON, Secretary

STOCKHOLDERS ANNUAL MEETING 1874

Office of the Oregon Central R. R. Co.

Portland, Oregon May 28th 1874

Pursuant to the By-Laws and written notice served upon each stockholder through the Post Office, the Stockholders of the Oregon Central Railroad Company met at their office in the City of Portland this 28th day of May 1874 at 12 o'clock M. and was called to order by Vice President Halsey.

The Secretary called the Roll of Stockholders as follows:

Names.	Shares.	Names.	Shares.
Milton E. Latham,		W. W. Catching.	4
Trustee.	26000	Henry Sewell....	1
Wm. Norris	20015	Wm. Mauzey	2
W. L. Halsey....	2501	Philemon S. Field	5
C. W. Weidler ...	492 $\frac{5}{8}$	Henry Buxton ..	10
A. de Pourtales...	81	A. C. Brown....	10
Ben Holladay	46	D. O. Quick	6
M. M. Melvin.....	5	Alvarez Matteson.	8
Wm. T. Newby...	13	Norman Martin..	5
W. C. Whitson...	1	David McDonald.	9
J. M. Belcher.....	1	Stephen Blank ..	8
B. F. McLench...	1	Thomas Hart....	5
Thos. H. Tongue.	1 $\frac{1}{2}$	Hyer Jackson ...	28
Jno. S. Griffin ...	1 $\frac{1}{2}$	C. A. Westfall..	16
C. A. Reynolds ...	4	H. B. Tucker....	6
S. H. Marsh	11 $\frac{1}{8}$	Jacob Halstead ..	1
Wm. Campbell....	32	Payton Wilkes ..	2
L. Patterson	2		
Oliver Clay	2	Jabez Wilkes....	1
Edward Constable.	1	Albert Simpson..	1
Anderson Ennis ..	1	Labbe Bros.	5
Elkanah Walker ..	2	Emil Lowenstein &	
		Co.	5
Jno. J. Gerrish...	1	Wm. Cree	5
Frances A. Bailey.	2	J. W. Ladd.....	5
S. A. Holcolm....	10	G. M. Vaughn...	5
Joseph Leonard ..	9	David Monnastee.	5
W. R. Barrett....	12	Walter Moffatt..	5

Names.	Shares.	Names.	Shares.
Robert Walker ...	8	E. J. Northrup & Co.	5
John Harrison ...	10	J. A. Fisher.....	15
Joseph Sedlak	100	Wiberg & Strow- bridge	5
Charles McKenny	7½	C. A. Burchardt.	5
George W. Ebberts	18	R. R. Thompson.	5
W. Baldra	1	Couch & Flanders	5
J. R. Boyce.....	½	E. Milwain	5
Eliza Best	7¼	I. M. Johns.....	24½
J. S. Brugger	20	J. B. Newby....	10
Margaret A. Conk- lin	20	J. M. Ritchey...	15
Kenyon Crandall ..	2	B. E. Stewart...	2
T. R. Cornelius...	5	D. C. Stewart...	2
D. C. Lewis.....	5	Thos. Standley ..	26
C. Bills	5	Wm. Ball	2
A. B. Hallock....	5	J. Gaston	1
J. S. Smith.....	5	M. Crawford	1
W. Lair Hill.....	10	J. N. Dolph.....	1
Ladd & Tilton....	5	S. M. Smith.....	1
F. Dekum	5	C. S. Silver.....	1
		H. W. Scott....	1
Jacob Kamm	5	J. W. Watts....	1
A. H. Johnson....	5	S. C. Adams.....	2
T. J. Carter.....	10	G. W. Burnett...	4
Jno. M. Breck....	5	Jesse C. Moore..	1
J. Myrick	5		
J. C. Ainsworth ..	6		

Names.	Shares.
Joe Teal	5
S. G. Reed	5
McCraken, Merrill & Co.	5

The following Stockholders answered to their names, to-wit: Milton S. Latham, Trustee, by A. G. Cunningham proxy, G. W. Weidler by A. G. Cunningham proxy, W. L. Halsey, R. R. Thompson, J. N. Dolph and J. Gaston.

The proceedings of the annual meeting of the Stockholders for 1873 were then read and approved.

On motion of Mr. Dolph the stockholders now proceeded to the election of seven Directors to serve for the next ensuing year. R. R. Thompson voted "No," objected to any election being held, and asked that his vote be recorded against it.

The votes were then polled, with the following result: Whole number of votes cast 26495, of which Ben Holladay, George W. Weidler, H. W. Scott, M. Crawford, and T. R. Cornelius, each received 26495, and W. L. Halsey and J. Gaston each received 26494, and George V. James received one vote, for the office of Directors for the next ensuing year; whereupon Vice President Halsey declared Ben Holladay, G. W. Weidler, H. W. Scott, M. Crawford, T. R. Cornelius, W. L. Halsey and J. Gaston duly elected Directors of this Corporation of the next ensuing year.

R. R. Thompson then stated that he objected and

protested against this election, for the reason that it was irregular and held without authority of law, and asked that his objection be noted on the records of this meeting.

CERTIFICATE OF ELECTION.

State of Oregon)	
	)	ss.
Multnomah County)	

Portland, Oregon May 28th 1874

I, William L. Halsey, Vice President of the Oregon Central Railroad Company, do hereby certify, that at an election for Directors, this day held at the office of said Company in this City, each of the following persons, to wit: Ben Holladay, George W. Wiedler, H. W. Scott, M. Crawford, T. R. Cornelius, W. L. Halsey and J. Gaston having each received 26494 votes for the office of Director in said Company, which being a majority of the stock of said Company, I hereby declare the said named persons to be duly elected Directors of said Oregon Central Railroad Company for the next ensuing year.

W. L. HALSEY, Vice Prest.

On motion the meeting then adjourned.

W. L. HALSEY, Vice Prest.

J. GASTON, Secretary.

Office of the Oregon Central R. R. Co.

Portland, Oregon July 25th 1874

Pursuant to the call of the President, the new Board

of Directors met at the Office of the Company in this City this day at one o'clock P. M. Present: Ben Holladay, W. L. Halsey, G. W. Weidler, T. R. Cornelius, M. Crawford, H. W. Scott and J. Gaston.

The Directors then qualified by taking the following oath of office.

"I Ben Holladay and I W. L. Halsey, and I G. W. Weidler, and I, M. Crawford, and I H. W. Scott, and I, T. R. Cornelius, and I J. Gaston, do solemnly swear that I will faithfully and honestly discharge the duties of a Director of the Oregon Central Railroad Company, for the term of office for which I have been elected, so help me God.

Signed

W. L. HALSEY,
G. W. WEIDLER,
H. W. SCOTT,
M. CRAWFORD,
J. GASTON.

Subscribed and sworn to before me this 25th day of July 1874.

(Notarial Seal)

I. R. MOORES,
Notary Public.

The Board then proceeded to elect officers for the next ensuing year, which election resulted in the selection of Ben Holladay for President, J. Gaston for Secretary and H. Hampton for Treasurer.

The President then announced that the Board was ready for business. Mr. Gaston then offered the following:

Whereas, Contract and Resolution, which was thereupon unanimously adopted, viz:

Whereas it is deemed by the Board of Directors of this Company for the best interests of this Company to enter into a certain agreement negotiated by the Agent and attorney in fact of this Company, between this Company as party of the first part, The Oregon and California Railroad Company as a party of the second part, Heinrich Hohenemser and others parties of the third part, and Milton S. Latham Trustee and attorney in fact of certain creditors of this Company party of the fourth part for the reasons set forth in said agreement which agreement is in words and figures as follows, to wit:

Whereas, the Oregon and California Railroad Company is now unable to pay the full interest on its first mortgage Bonds, and has defaulted in the payment of the coupons due: October first, eighteen hundred and seventy three, and April first, eighteen hundred and seventy four;

And whereas, said Company is under the necessity, in order to avoid a foreclosure and sale of the road by the bondholders, to make a compromise with the latter, which compromise has been made known to all the parties to this agreement;

And whereas, it is stipulated in said agreement of compromise as one of the conditions of said compromise as follows Ben Holladay herein agrees to join with the creditors of the Oregon Steamship Company, and the creditors of the Oregon Central Railroad Company, in

any arrangement, with their consent by which the entire property of these two companies, after their indebtedness is liquidated, shall belong to the Railroad Company, and be a further security by mortgage to the bondholders; And Whereas, said Oregon Central Railroad Company has the strongest interest in the conclusion of said compromise; And Whereas, said Heinrich Hohenemser, director of the Deutsche Vereins Bank at Frankfort-on-the Main; Aron Neiderhofheim, Manager of the Branch of the Bank of Commerce and Industry, at Frankfort on-the Main; Julius Schmidt, merchant at Frankfort on-the Main; Adolph Otto, counsellor-at-law at Heilbroun, in the Kingdom of Wurtemberg; Henry Villard, of Heidelberg, in the Grand Duchy of Baden; Michael Benjamin, director of the Baierische Weckster Bank, at Munich, in the Kingdom of Bavaria; Carl Stachelin Bucknor, of the firm of Iselin and Stachelin, of Basle, in Switzerland; F. S. Van Nierop, director of the Bank of Amsterdam, in the Kingdom of the Netherlands, and Wm. Koester, of the firm of Koester and Company of Manheim, in the Grand Duchy of Baden, have established and proved their ownership of Six Millions four hundred and sixty eight thousand six hundred dollars of bonds of the Oregon and California Railroad Company;

And whereas, the parties aforementioned are admitted to be the lawful owners of the majority, in interest as well as in numbers, of the First Mortgage Bonds of the Oregon and California Railroad Company, by the said Oregon Central Railroad Company, as well as

by all the other parties to this agreement.

And Whereas, the creditors of said Oregon Steamship Company, to wit: Messrs Sulzbach Brothers of Frankfort on-the-Main, and others represented by Milton S. Latham as Trustee and attorney in fact, are the creditors of the Oregon Central Railroad Company, to the amount of one million dollars, in gold, with interest; And Whereas, said creditors hold as collateral securities for the principal and interest of their claim the entire issue of the first mortgage bonds of the Oregon Central Railroad Company, to the nominal amount of four million three hundred and ninety five thousand (\$4,395,000) dollars; And Whereas, said creditors of said Oregon Central Railroad Company are equally interested in the preservation of the Oregon and California Railroad Company and the prevention of foreclosure;

Now therefore; in consideration of the premises and other valuable considerations, the parties to these presents thereunto moving, the said Oregon Central Railroad Company as party of the first part; the said Oregon and California Railroad Company as party of the second part; and said Heinrich Hohenemser, director of the Deutsche Verein Bank at Frankfort on-the-Main; Aron Niederhofheim, Manager of the Branch of the Bank of Commerce and Industry at Frankfort on-the-Main; Julius Schmidt, merchant, at Frankfort on-the-Main; Adolf Otto, counsellor at-law, at Heilbroun, in the Kingdom of Wurtemberg; Michael Benjamin, Director of the Baierische Mechster Bank at Munich, in the Kingdom of Bavaria; Carl Staekelin Bueknor,

of the firm of Iselin and Staeklin, of Basle, in Switzerland; F. S. Van Nierop, director of the Bank of Amsterdam, in the Kingdom of the Netherlands, and Wm. Koester, of the firm of Koester and Company, at Mannheim, in the Grand Duchy of Baden, by Henry Villard of Heidelberg, in the Grand Duchy of Baden, their attorney in fact, and the said Henry Villard, as owners of six millions four hundred and sixty eight thousand six hundred dollars of bonds of the Oregon and California Railroad Company for themselves, their executors, administrators, successors and future holders of the bonds of the Oregon and California Railroad Company, as parties of the third part, and said creditors of the Oregon Central Railroad Company represented by Milton S. Latham as their trustee and attorney in fact, as a party of the fourth part, have covenanted and agreed as follows;

Article 1—The entire net receipts of the Oregon Central Railroad Company, (meaning by the term “net receipts,” wherever it is used in this agreement, all receipts remaining after paying the operating expenses and taxes and such floating debt as now exists against said Company, and keeping the property of said Oregon Central Railroad Company in reasonably good repair, all outlay in every other case being prohibited except by the agreement of all the parties to these presents), shall be applied, first, to the payment of the interest, at the rate of ten per cent per annum, on said principal of One million dollars, gold loaned by said party of the fourth to said Oregon Central Railroad Company,

and, next to the payment of the principal of said loan.

Article II Whenever, and as soon as said interest and said principal shall be paid, either out of the net receipts of said Oregon Central Railroad Company, or in any other manner, the entire net receipts of said Oregon Central Railroad Company shall be paid to the parties of the third part, or their lawful representative, at the end of each month, and the parties of the third part shall apply the same in the same manner as the net receipts of the Oregon and California Railroad Company are to be applied under said agreement of compromise, to the payment of the current interest on the first mortgage bonds of the Oregon and California Railroad Company, up to the amount of seven per cent per annum, and upon the payment in full of said interest, and the redemption of the certificates of indebtedness to be issued for unpaid interest by said Oregon and California Railroad Company, rateably, according to the different series of said certificates of indebtedness, and finally upon the redemption of said certificates, for the payment of the principal of said bonds at maturity, or their purchase previously thereto.

Article III—The securities now in the hands of the party of the fourth part, to wit, four million three hundred and ninety five thousand (\$4,395,000) dollars, first mortgage bonds of said Oregon Central Railroad Company, shall, secondly, serve as collateral security to the parties of the third part of their claims mentioned in Article II, without prejudice, however, to the claim of said party of the fourth part to said securities as col-

lateral, and said party of the fourth part shall hold said collateral security for his own benefit as long as he is not himself paid in full, but also for the benefit of the parties of the third party; upon payment in full of said party of the fourth part said securities shall pass into the hands of the parties of the third part, but nothing stipulated herein shall prevent the said parties of the fourth part from making good their claims against said Oregon Central Railroad Company for principal and interest by the sale, at any time they may it to their interest to make such sale, of the securities of said Company, held by them as collaterals.

Article IV—The party of the first part binds itself to deliver to the party of the third part at the proper time, said securities, as collaterals.

Article V—In case said party of the second part shall not comply with any of the provisions of the agreement or of the larger agreement between the party of the second part hereto and the parties of the third part and others (whereof these presents are expressly thereby made a part, and which is hereby made a part of these presents) the parties of the third part, at any time, at their option, and without any delay on a written notice to the several parties to this agreement, of seven days. advertised in any paper published in Portland, Oregon (the parties hereto waiving hereby all right to any other or further notice or time whatever fixed by statute or otherwise) shall have the right to require and cause to be made a sale of said bonds, or any of them, of said Oregon Central Railroad Company, so held as collateral

by the said party of the fourth part, and in this way or any other lawful manner, to cause themselves to be repaid (after the satisfaction of any prior claims, as aforesaid), for the principal and interest of said mortgage bonds of said Oregon and California Railroad Company, as far as practicable.

Article VI—The party of the first part binds itself to furnish at the beginning of each month, or as soon thereafter during the succeeding month as practicable, to the said parties of the second and third parts a statement of the receipts of the preceding month of said Oregon Central Railroad Company, and also to allow the said parties of the third and fourth parts, or their lawful representative, to examine at all times all the books, accounts, papers and property of the Oregon Central Railroad Company.

Article VII—All the provisions of the larger agreement between the party of the second part and the parties of part and others hereto (whereof these presents are expressly thereby made a part, and which is hereby made a part of these presents relating to the continuance of the agreement, the rights of the parties of the third part hereto in case of a violation of its term or a failure to carry it out by any of the parties contracting with said parties of the third part, and as to the acknowledgment of the ownership of bonds represented by the parties of the third part; and their authority and the continuance thereof, and the waiver and estoppel of any other party's right to question the same and other things therein specified, and the right of any three or

more of the persons composing said parties of the third part to act, and the right of said parties of the third part, or any three or more of them to do all acts and exercise all powers whatsoever, by their agent or attorney, and as to the manner and effect of admitting new persons into said parties of the third part and their rights, and as to the amount of interest to be paid in the first mortgage bonds of the party of the second part hereto annually, for the first five and the next three years, respectively, and all other provisions of the said larger agreement which secure any rights or benefits to any of the parties to this agreement, and are capable of application to the matters herein named shall be deemed to be a part of and incorporated in the presents, and adopted by the parties hereto in relation to all the terms of these presents as fully and to the same intents and purposes as if herein out at large, and in terms so applied and adopted.

Article VIII—The securities of the Oregon Central Railroad Company herein named, and now in the hands of the party of the fourth part, may, notwithstanding anything contained in this agreement, at any time, by the consent of and on terms satisfactory to the parties of the third and fourth parts, to be applied or used as security in order to provide the means to complete the said Oregon Central Railroad.

Article IX—This contract is assented to and executed in behalf of the parties of the fourth part upon the distinct understanding that nothing herein contained shall in any wise interfere with their respective hereto-

fore acquired rights in the premises; nor shall this contract be held as between them, or either of them, and the other contracting parties, or any of them to require any notice of any description whenever and wherever or in what way soever the parties of the fourth part, or either of them, may proceed to enforce their said respective rights and demands, and if in such case any notice whatever be required by reason of this contract in any proceeding at law, or otherwise, notwithstanding this article, then the parties hereto waive any and all notice by process or otherwise, and hereby consent that the parties of the fourth part may if they so choose appoint as attorney to represent the remaining parties hereto in any proceeding, if this article shall not be deemed to amount to a waiver of right to notice as aforesaid.

IN WITNESS WHEREOF; the said parties have hereunto set their respective hands and seals in quadruplicate, the said parties of the third part, except the said Henry Villard acting by their said attorney in fact, and the said several corporations have, by Resolutions of their respective Boards of Directors, caused their respective corporate seals to be hereunto affixed and these presents to be signed by their respective Presidents and attested by their respective Secretaries, in quadruplicate this 25th day of July, A. D. One Thousand eight hundred and seventy four."

(Signed by the aforesaid parties thereto.)

On motion the Board then adjourned.

J. GASTON,
Secretary

Office of the Oregon Central R. R. Co.

Portland, Oregon Feb. 9th 1875

The Board met pursuant to the call of the President for the purpose of electing Vice President. Present: Directors W. L. Halsey, J. Gaston, M. Crawford, George W. Weidler and H. W. Scott. On motion of Mr. Wiedler, W. L. Halsey was elected temporary Chairman.

On motion of Mr. Crawford the Board now proceeded to the election of a Vice President. The Chairman appointed the Secretary as Teller, and the election was held by ballot.

The ballots being cast and counted, it was found that four votes had been polled, and all in favor of W. L. Halsey for Vice-President. Whereupon Mr. Halsey was declared duly elected Vice-President of the Company.

On motion the Board adjourned sine die.

Attest:

J. GASTON,
Secretary.

W. L. HALSEY,
V. Prest.

Office of the Oregon Central Railroad Co.

Portland, Oregon March 12, 1875

Pursuant to call of the Vice President the Board of Directors of this Company met at their office in

this City this day at eleven o'clock A. M. Present: Directors Halsey, Cornelius, Weidler, Crawford and Gaston, Vice President Halsey in the Chair. The Vice President offered the following preamble and Resolution which on motion of Director Crawford was adopted.

Whereas by the terms of "Article Four" of a certain agreement and contract entered into and executed on the 25th day of July A. D. 1874, by and between certain bondholders of the bonds of the Oregon and California Railroad Company to wit: Heinrich Hohenemser, Aron Niederhofheim, Julius Schmidt, Adolf Otto, Michael Benjamin, Carl Staekelin Buchnor, F. S. Van Nierop and Wilhem Koester by their attorney in fact Henry Villard, and the said Henry Villard, as parties of the first part, The Oregon and California Railway Company as party of the second part, Ben Holladay as party of the third part, and Faxon D. Atherton and Milton S. Latham Trustees, as parties of the Fourth part, it was and is provided among other things as follows:

And the said party of the third part further agrees at the time of the execution of this agreement, to assume or pay, or cause to be paid, the floating debt of the Company (meaning the said Oregon and California Railroad Company) now outstanding, to the extent of seventy five thousand dollars, not including interest on bonds, said amount being estimated by said party of the third part to be all of said floating debt and in consideration of this assumption and payment of said indebtedness, the party of the second part shall transfer, assign and

convey to the party of the third part, contemporaneously with such payment, and the release of the Company from said floating debt, an equal amount of its claims against the Oregon Central Railroad Company;

And Whereas, the floating indebtedness of said Oregon and California Railroad Company to the North Pacific Transportation Company did on said 25th day of July 1874 amount to the sum of \$40,683.95-100 Coin dollars, on which day the indebtedness of this Company to said Oregon and California Railroad Company exceeded said sum,

And Whereas, in performance of the aforementioned stipulation in said contract contained, by an arrangement between said North Pacific Transportation Company (asking for and on behalf of said Ben Holladay) and the said Oregon and California Railroad Company which arrangement was consummated and carried into effect by the Secretaries of said last named Companies respectively on said 25th day of July 1874, forty thousand and six hundred and eighty three & 95-100 dollars of said indebtedness of this Company to said Oregon and California Railroad Company was transferred to said North Pacific Transportation Company in payment and satisfaction of said indebtedness of said O & C. R. R. Co. to said N. P. T. Co. and this Company having been credited on the books of said Oregon & California Railroad Company with said sum of \$40,683.95-100 and charge herewith upon the books of said North Pacific Transportation Company therefore:

Resolved, That said acts of said Oregon & Califor-

nia Railroad Company and of said North Pacific Transportation Company, and of said Secretaries of said Companies respectively in so far as they affect and have relation to the rights and interests of this Company in said transaction of transferring said indebtedness of this Company in said sum of \$40,683. & 95-100 from said Oregon and California Railroad Company to said North Pacific Transportation Company, be and the same are hereby in all things fully ratified and confirmed in consideration of the extinguishment of so much of the indebtedness of this Company to said Oregon and California Railroad Company and that this Company acknowledges and admits itself indebted to said North Pacific Transportation Company in said sum of \$40,683.95-100 in U. S. Gold Coin and hereby assumes and agrees to pay the same.

Director Weidler then offered the following preamble and resolutions which on motion of Director Crawford was adopted.

Whereas this Company is unable for want of funds to pay the taxes assessed and levied against it in the Counties of Washington and Yamhill in this State, and whereas the Road of the Company in said Counties is in danger of being levied on and sold for the payment of taxes whereby additional costs and expenses will be incurred, Therefore be it Resolved that the officers of this Company be authorized to negotiate a loan of Milton S. Latham of the State of California for the sum of four thousand dollars to pay said taxes in said Counties, which sum shall be made payable to

said Milton S. Latham on demand with interest at one per cent per month.

Resolved, that to secure the payment of said loan the net earnings of the Road of this Company be hereby pledged and set aside monthly for the liquidation of the same until said loan shall be fully paid and discharged; and the Treasurer of the Company is hereby directed without further order to apply all such net Earnings monthly until such loan and the interest thereon is fully paid.

Resolved that the President and Secretary of this Company be and they are hereby authorized and directed to execute in the name of this Company and under its Corporate Seal or otherwise, the promissory note of this Company on the sums aforesaid and such other instruments as shall be necessary to secure the payment of such loan and interest, and the appropriation of the net earnings of the Road as herein provided.

On motion the Board then adjourned sine die.

J. GASTON,
Secretary.

W. L. HALSEY,
V. Prest.

Office of the Oregon Central R. R. Co.

Portland, Oregon May 27th 1875

Pursuant to the regular printed notice served through the Post Office, the stockholders of the Oregon Central Railroad Company met at the office of the Company in the City of Portland Oregon this day at 12 o'clock M. at which hour the meeting of stock-

holders was called to order by the Secretary, who then called the roll of stockholders, when the following stockholders answered to their names; to wit:

W. L. Halsey

W. T. Newby

Jno S. Griffin by T. D. Humphreys, proxy

Wm. Mauzey

S. H. Marsh

Wm. Campbell

Henry Buxton

A. C. Brown

David McDonald

Stephen Blank

Thos Hart by W. R. Jackson, proxy

Hyer Jackson's est. by W. R. Jackson, Admr.

Elkanah Walker by Stephen Blank, Proxy

S. A. Holcomb by George Morrow, proxy

Joseph Leonard by George Morrow, proxy

Charles McKenny, by T. D. Humphreys, proxy

George M. Ebberts by George Morrow, Proxy

W. Baldra by H. B. Luce, proxy

J. S. Brugger

Margaret A. Conklin by J. Beach proxy

J. S. Smith by Geo. H. Durham

W. Lair Hill

Ladd & Tilton

F. Dekum

Jno M. Breck by B. Killin proxy

Sam Lowenstine by H. B. Luce proxy

Wm. Cree's Estate, by John Catlin, Admr.

J. W. Ladd Estate, by W. S. Ladd

Wiberg & Strowbridge by Edward Woodworth
proxy

R. R. Thompson

J. Gaston

G. W. Burnett by W. T. Newby proxy

Stephen Coffin

J. H. Gaunt by W. T. Newby proxy

O. H. Kimball

J. L. Hallett

Robt. Imbrie

The Secretary then announced that a quorum had answered to their names, and that the Acting President of the Company was not present or in the State.

W. T. Newby then moved that Stephen Coffin be elected Chairman of this meeting and President of the Company pro tem, which motion was unanimously adopted.

Mr. Coffin then appeared and took the following oath of office: "I do solemnly swear that I will faithfully, honestly and impartially discharge the duties of President of the Oregon Central Railroad Company, and Inspector of the election for a Board of Directors of said Company now about to be held.

S. COFFIN

Subscribed and sworn to before me this 27th day
of May 1875.

Andrew J. Moses, Notary Public

(Notarial Seal)

State of Oregon

The President then took the Chair, and appointed H. B. Luce and O. H. Kimball, Tellers of the election. W. L. Halsey then declared that he protested against further proceedings of the said Coffin as President, as he the said Halsey claimed to be the Vice President of the Company, and entitled to preside at the meeting. The Secretary then read the By-Laws of the Company to the meeting to show that the Vice President had no right to preside. J. N. Dolph then offered the following protest: "As a stockholder of this Company I protest against the proceedings of this meeting for the reasons that a large majority of the stockholders of this Company have been excluded from participating therein, and because the Secretary has refused to certify them as stockholders of the Company, and because the Vice President of the Company has been excluded from presiding over the meeting, and the whole proceedings are illegal and void."

The President then ordered the election to proceed, and directed the Stockholders to prepare their ballots.

The ballots were then cast, and counted by the Tellers, the Secretary recording the result of each ballot. The Secretary and Tellers counted the whole number of votes to the President, who then announced the result of the election in the following vote:

For Directors,

W. T. Newby.....	25272	votes
Henry Buxton	25272	votes
O. H. Kimball	25272	votes

Stephen Coffin	25272	votes
Robt Imbrie	25272	votes
D. C. Lewis	25272	votes
J. Gaston	25267	votes
Stephen Blank	5	votes
George Morrow	1	vote

The President then made and executed the following certificate.

State of Oregon)
	) ss.
Multnomah County)

Know all men by these presents that I, Stephen Coffin by virtue of the power and authority reposed in me by the stockholders of the Oregon Central Railroad Company, and by the General Incorporation law of said State and the By-Laws of said Corporation, and as President of said Oregon Central Railroad Company and Chairman of the annual meeting of the Stockholders of said Company, held at the office of said Company in the City of Portland Oregon this 27th day of May 1875, do hereby certify that I have acted as Inspector of the annual election by said Stockholders for a Board of Directors this day held in pursuance of regular notice, and that at such annual election the following named persons severally received the number of votes set opposite their respective names, viz: Stephen Blank 5 votes, George Morrow 1 vote, W. T. Newby 25272 votes, Henry Buxton 25272 votes, O. H. Kimball 25272 votes, Stephen Coffin 25272 votes, Robt Imbrie 25272 votes, D. C. Lewis 25272 votes and J. Gaston 25267

votes. And I do further certify that said named persons, to wit, W. T. Newby, Henry Buxton, O. H. Kimball, Stephen Coffin, Robt Imbrie, D. C. Lewis and J. Gaston have been regularly, duly and legally elected Directors of the said Oregon Central Railroad Company, and entitled to exercise the office thereof for the next ensuing year.

Attest:

J. GASTON,

Secretary

S. COFFIN,

President pro tem of

Oregon Central Railroad Co., and Chairman Stockholders meeting.

The Directors then appeared and took the following oath of office.

“Know all men by these presents that I, W. T. Newby, and I, Henry Buxton, and I, J. Gaston, and I, O. H. Kimball, and I, Stephen Coffin, and I, Robt Imbrie, being each first duly sworn, say we, each for himself, that I (we) will faithfully and honestly discharge the duties of Directors of the Oregon Central Railroad Company, to which office I have been elected for the next ensuing year, so help me God.”

J. GASTON

S. COFFIN

Subscribed and sworn to before me this 27th day of May 1875.

Andrew J. Moses, Notary Public,

(Notarial Seal)

State of Oregon.

Stephen Blank then offered the following resolutions which were unanimously adopted.

“Whereas, Under the management of Ben Holladay, our investment in the Stock of the Oregon Central Railroad has been greatly depreciated, the rights of the creditors and stockholders have been defied, and the interests wants and convenience of the people along the line of the road wholly ignored and the road itself suffered to get out of repair, thereby imperiling the lives of passengers and endangering the safety of property, therefore be it resolved

1st—That we hereby wholly condemn and disapprove of the management of the Oregon Central Railroad by said Ben Holladay.

2nd—That we have good reason to believe that said Holladay has wrongfully and unlawfully appropriated and converted to his own use a large amount of the funds borrowed to construct said Road; and we therefore call upon the new Board of Directors to make a thorough investigation of said Holladays’ acts, and if these suspicions be well founded, to take such steps as will compel the return of said property.

3rd—That we hereby instruct the Board of Directors to immediately put the Road in thorough repair, and make such regulations as will fully accommodate the people on its line and build up its business. On motion of W. T. Newby the stockholders meeting then adjourned sine die.

Attest:

J. GASTON,

Secretary

S. COFFIN,

President pro tem

(of the O. C. R. R. Co. and Chairman
(of the Stockholders' meeting.

Office of the Oregon Central R. R. Co.

Portland, Oregon May 27th 1875

In pursuance of a call of the President of the Company the Board of Directors met at the office of the Company this 27th day of May 1875, and was called to order by the President of the Stockholders meeting. On motion S. Coffin was elected President of the Board pro tem and J. Gaston Secretary pro tem.

On motion the Directors present, viz, S. Coffin, W. T. Newby, H. Buxton, Robt Imbrie, O. H. Kimball and J. Gaston proceeded to organize the Board by electing by ballot a President, Secretary and Treasurer, and General Superintendent. The President appointed O. H. Kimball, Teller, and the votes being cast by separate ballots, it was found that J. Gaston had received five votes for the office of President, that O. H. Kimball had received six votes for the office of Secretary and Treasurer, and that J. L. Hallett had received six votes for the office of General Superintendent. Durham and Thompson were then appointed the Attorneys for the Company; and the President directed to remove the safe, desks etc to the Freight office of the Company. On motion the Board then adjourned.

Attest:

J. GASTON,
Sec. pro tem.

S. COFFIN,
President pro tem

State of Oregon)
) ss.
Multnomah County)

Know all men by these Presents, that I, Stephen Coffin by virtue of the power and authority reposed in me by the stockholders of the Oregon Central Railroad Company, and by the General Incorporation laws of said State and the By-Laws of said Corporation, and as President of said Oregon Central Railroad Company and Chairman of the annual meeting of the Stockholders of said Company, held at the office of said Company, in the City of Portland Oregon this 27th day of May 1875 do hereby certify that I have acted as Inspector of the annual election by said Stockholders for a Board of Directors, this day held in pursuance of regular notice, and that at said annual election the following named persons severally received the number of votes set opposite their respective names, viz: Stephen Blank 5 votes, George Morrow

W. T. Newby.....25272 votes,
Henry Buxton.....25272 votes,
O. H. Kimball.....25272 votes,
Stephen Coffin25272 votes,
Robt Imbrie.....25272 votes
D. C. Lewis.....25272 votes
J. Gaston25267 votes

And I do further certify that said named persons, to

wit: W. T. Newby, Henry Buxton, O. H. Kimball, Stephen Coffin, Robt. Imbrie, D. C. Lewis, and J. Gaston have been regularly, duly and legally elected Directors of the said Oregon Central Railroad Company, and entitled to exercise the office thereof for the next ensuing year.

S. COFFIN,

President pro tem and Chairman
of the Oregon Central R. R. Co. of
Stockholders meeting.

Attest: J. GASTON,

Secretary

Know all men by these presents that I W. T. Newby, and I Henry Buxton, and I J. Gaston, and I O. H. Kimball, and I Stephen Coffin, and I Robt Imbrie, and I D. C. Lewis, being each first duly sworn to state the truth, say we each for himself, that I (we) will faithfully and honestly discharge the duties of Directors of the Oregon Central Railroad Company, to which office I have been elected, for the next ensuing year, So help me God.

J. Gaston

O. H. Kimball

S. Coffin

W. T. Newby

H. Buxton

Robt Imbrie

Subscribed and sworn to before me this 27th day of
May 1875.

ANDREW J. MOSES,

Notary Public, State of Oregon

(Notarial Seal)

State of Oregon)
) ss.
Multnomah County)

Know all men by these Presents, that I, D. C. Lewis, being first duly sworn say, that I will faithfully and honestly discharge the duties of a Director of the Oregon Central Railroad Company of Portland, Oregon, for the term to which I was elected on the 27th day of May, 1875, at the annual meeting of the Stockholders of said Company, So help me God.

D. C. LEWIS.

Subscribed in my presence and sworn to before me this 21st day of June, 1875.

GEO. H. DURHAM,
Notary Public for Oregon.

(Notarial Seal).

JOURNAL OF MINUTES

OF

O. C. R. R. CO.

OF PORTLAND

VOL. III.

Office of the Oregon Central R. R. Co.

Portland, Oregon, May 27th 1875.

This being the day fixed by the By laws for the annual meeting of the Stockholders of the Oregon Central Rail Road Company, and due notice of the same having been given, a meeting of the Stockholders of said Company was duly held at the office of the Company at Portland, Oregon at 12 o'clock M. of this the 27th day of May A. D. 1875. In the absence of the President of the Company, W. L. Halsey Vice President of the Company was called to the chair and acted as the President of the stockholders meeting. J. Gaston, the Sec-

retary of the Company, refusing to serve as Secretary of the meeting, H. Hampton was on motion of J. N. Dolph, seconded by G. W. Weidler, duly elected Secty pro tem. A roll of Stockholders of the Company being called the following stock was represented, namely

J. N. Dolph owner of	5 shares	
G. W. Weidler, owner.....	495 $\frac{5}{8}$	"
W. L. Halsey, owner.....	5	"
M. S. Latham individually and as Trustee by W. L. Halsey proxy owner of	26,000	"
J. C. Norris by W. L. Halsey proxy owner of	2,500	"
In all	29,005- $\frac{5}{8}$	"

J. N. Dolph moved that the Stockholders meeting now proceed to the election of a board of Directors of this Company for the ensuing year. The motion was seconded by Geo. W. Weidler and upon the vote being had the motion was unanimously carried. Whereupon the Stockholders meeting proceeded to the election of a Board of Directors and a ballot being had resulted as follows:

Ben Holladay received.....	29,005- $\frac{5}{8}$ votes
W. L. Halsey " 	29,005- $\frac{5}{8}$ votes
G. W. Weidler " 	29,005- $\frac{5}{8}$ votes
H. W. Scott " 	29,005- $\frac{5}{8}$ votes
M. Crawford " 	29,005- $\frac{5}{8}$ votes
T. R. Cornelius " 	29,005- $\frac{5}{8}$ votes
S. G. Reed " 	29,005- $\frac{5}{8}$ votes

And said Ben Holladay, W. L. Halsey, G. W. Weidler, H. W. Scott, M. Crawford, T. R. Cornelius and S. G. Reed having each received the unanimous vote of the Stockholders present, and more than a majority of all the Stock of this Company were each declared duly elected Directors of this Company for the ensuing year and thereupon the President of the meeting filed a certificate of their election as such Directors, which is as follows, to wit:

“State of Oregon, County of Multnomah), S. S.

I, W. L. Halsey, Vice President of the Board of Directors of the Oregon Central Rail Road Company, hereby certify that at the annual meeting of the Stockholders of the Oregon Central Railroad Company held at the office of said Company at the City of Portland in the County of Multnomah in the State of Oregon, at 12 o'clock M. of the 27th day of May A. D. 1875 the following persons were duly elected Directors of said Company for the ensuing year, to wit:

Ben Holladay, W. L. Halsey, G. W. Weidler, H. W. Scott, M. Crawford, T. R. Cornelius and S. G. Reed. And that said Directors each received Twenty Nine Thousand and Five votes at said election, and more than a majority of all the Stock of said Company.

May 27th 1875.

W. L. HALSEY,

Vice President of Co. & President of Meeting of Stockholders.

On Motion July 10th proximo was fixed as the time of the first meeting of the Directors.

On motion the meeting then adjourned.

W. L. HALSEY,
Prest. Stockhlds. Mtg.

H. HAMPTON,
Secty. Pro tem

Office of the Oregon Central R. R. Co.

Portland, Or. May 31 /75

At a special meeting of the Board of Directors of the Oregon Central R. R. Co. held this day, due legal notice having been given to all the Directors of the Company in this State, were present.

W. L. Halsey, V. P. in the chair, M. Crawford, T. R. Cornelius, G. W. Weidler.

M. Crawford was elected unanimously Secty. pro tem. On motion of M. Crawford seconded by G. W. Weidler, it was

Resolved: That J. Gaston, Secretary of this Company, be and he is hereby removed from the office of Secretary of this Company.

On motion of T. R. Cornelius seconded by G. W. Weidler it was

Resolved: That H. Hampton be and he is hereby appointed Secretary of the Oregon Central Rail Road Company.

On motion of Mr. Crawford seconded by T. R. Cornelius it was

Resolved: That upon qualifying as Secretary of this Company, H. Hampton be and he is hereby authorized and directed to demand of J. Gaston, former Secretary, the Seal of this Company, and all books, papers, records, and other property in his possession, and if said Gaston shall refuse to deliver the same, the Attorney of this Company is hereby directed to replevin the same in the name of this Company.

On motion of T. R. Cornelius seconded by M. Crawford the meeting then adjourned.

M. CRAWFORD,

Secty Pro tem.

W. L. HALSEY V. Prest.

Office Oregon Central R. R. Co.

Portland, Oregon, July 10th 1875.

At a meeting of the Board of Directors of the Or. Central R. R. Co. held this 10th day of July 1875 pursuant to resolution adopted at meeting of Stockholders May 27th 1875, were present the following directors elect viz

W. L. Halsey

M. Crawford

S. G. Reed

T. R. Cornelius

H. W. Scott

Geo. W. Weidler

who qualified as such under the laws of the State of Oregon by subscribing to an oath of which the following is a copy, the original being duly filed, to wit

State of Oregon, County of Multnomah, S. S.

We, Geo. W. Weidler, W. L. Halsey, T. R. Cornelius, S. G. Reed, M. Crawford and H. W. Scott, being each first duly sworn, say and each for himself says, that I will support and maintain the Constitution of the United States and of the State of Oregon, and will faithfully and honestly discharge the duties of Director of the Oregon Central R. R. Company of Portland during my term of office, So help me God.

(Signed)

GEO. W. WEIDLER

“

W. L. HALSEY

“

T. R. CORNELIUS

“

S. G. REED

“

M. CRAWFORD

“

H. W. SCOTT

Subscribed and sworn to before
me this 10 day of July A. D. 1875.

(Seal)

(Signed)

I. R. MOORES

Notary Public for State of Oregon, County of Multnomah.

Ben Holladay, also a director elect, being absent from the State, qualified as a Director of the Or. Central R. R. Co. before a Commissioner for the State of Oregon in the City of Washington, D. C., by subscribing to an oath of which the following is a copy, the original being filed, to wit:

United States of America, District of Columbia) S. S.

I, Ben Holladay, having been first duly sworn, say that I will support the Constitution of the United States and the State of Oregon, and will faithfully and honestly discharge the duties of Director of the Oregon Central Rail Road Co. of Portland during my term of office.

(Signed)

BEN HOLLADAY

Subscribed and sworn to before me, Jos. T. K. Plant, a Commissioner of the State of Oregon, this 24th day of June A. D. 1875.

(Seal)

Signed

JOS. T. K. PLANT

Commissioner of the State of Oregon.

On motion of W. L. Halsey seconded by H. W. Scott, T. R. Cornelius was chosen Chairman and H. Hampton Secty of the meeting.

The Chairman announced the first business of the meeting to be the election of Officers for the ensuing year.

W. L. Halsey nominated Ben Holladay for President of the Company, which being duly seconded and there being no other nomination an election by ballot was held, in which Ben Holladay received all the votes cast—five in number—and was declared duly elected President of the Compy.

Geo. W. Weidler nominated W. L. Halsey for Vice-President of the Or. Central R. R. Co. which being duly seconded, and there being no other nomination, an election by ballot was held in which W. L. Halsey received all the votes cast—four in number—and was declared duly elected Vice President of the Company.

W. L. Halsey nominated H. Hampton for Secty of The Oregon Central R. R. Co., which being duly seconded and there being no other nomination, an election by ballot was held in which H. Hampton received all the votes cast—four in number—and was declared duly elected Secretary of the Company.

W. L. Halsey nominated H. Hampton for Treasurer of the Oregon Central R. R. Co., which being duly seconded and there being no other nomination, an election by ballot was held in which H. Hampton received all the votes cast—four in number—and was declared duly elected Treasurer of the Company.

The Board of Directors being now fully organized, T. R. Cornelius, temporary Chairman, vacated the Chair and Vice Pres. W. L. Halsey assumed the same.

The resignation of S. G. Reed as a director of the

Or. Central R. R. Co. was read by the Scty, and on motion of T. R. Cornelius seconded by M. Crawford was accepted and ordered filed.

There being no further business to transact, on motion of C. W. Weidler seconded by M. Crawford the Board of Directors adjourned.

H. HAMPTON, Scty.

W. L. HALSEY V. Prest.

Office of the Or. Centl. R. R. Co.

Portland July 13 /75

At a meeting of the Board of Directors of the Or. Central R. R. Co. held at the office of the Company this 13th day July 1875, being the day fixed for the regular monthly meeting of the Directors, were present Geo. W. Weidler, M. Crawford, H. W. Scott. There not being a quorum of the Board present the meeting adjourned.

H. HAMPTON, Scty.

Office of the Or. Centl. R. R. Co.

Portland, September 3, 1875.

At a special meeting of the Board of Directors of the Oregon Central Railroad Co. held at the office of the Company this 3rd day of September 1875, the following named persons Directors of this Company were present. T. R. Cornelius, H. W. Scott, M. Crawford and Geo. W. Weidler. The President and Vice President both being absent, T. R. Cornelius was elected temporary Chairman the Secretary read the resignation

of W. L. Halsey as Vice President and on motion of Mr. Weidler seconded by Crawford it was accepted. G. W. Weidler was nominated for the office of Vice President and upon the ballot being cast he was unanimously elected.

On motion of H. W. Scott seconded by M. Crawford it was

Resolved: That H. Hampton, Secretary of this Company, be and he is hereby authorized to audit settle adjust and compromise the whole or any portion of the accounts between this Company and J. Gaston and to execute all necessary releases and receipts.

On motion of H. W. Scott seconded by M. Crawford it was

Resolved: That the President and Secretary of this Company be and they are hereby authorized to borrow of Milton S. Latham the sum of Twenty four hundred dollars Coin to be used to satisfy the judgment and costs in the case of W. T. Newby vs the Oregon Central Railroad Company in the Circuit Court for Multnomah County, and costs of pending litigation with said Newby. And the further sum of One thousand Dollars Coin to be paid to said Newby upon a full release and settlement of all further claims and demands against this Company and the surrender to this Company of two bonds of this Company of the denomination of one thousand dollars each now in possession of said Newby and all interest coupons of said bonds, and the further sum of five hundred dollars coin to be paid upon compromise of cer-

tain pending litigation growing out of the last stockholders meeting of this Company concerning the legality of the election of the Directors of this Company, and to pledge to said Latham the net earnings of the Road of this Company as security for said loan and that they are hereby directed to set apart for that purpose monthly the net earnings of the Company until such indebtedness is liquidated.

And Resolved: That the President and Secretary of this Company be and they are authorized to pay said several sums for the purposes indicated above upon the settlement of such pending litigation to the satisfaction of the Attorney of this Company.

On motion of M. Crawford seconded by H. W. Scott it was

Resolved That: The President and Secretary of this Company be and they are hereby authorized and directed to establish stations at Hillsboro and Forest Grove in Washington County upon the following terms and conditions. The Company to use its own iron and ties for side tracks and switches and to put it down and to permit the people of those places to put up such buildings as they shall desire for warehouses and other buildings to accommodate the business at those places upon the same terms as the most favored stations upon the Road. The people at those places to give and secure to the Company the right of way for the Road of this Company through the lands of Wheelock Simmons at Hillsboro, and Alvin T. Smith at Forest Grove and to secure and

cause to be conveyed to the Company also sufficient lands for all necessary side tracks, switches, depot grounds, warehouses wood grounds and water tanks and car yards and other ordinary appurtenances of the Road and to bear all the expenses of establishing said stations aside from the iron and ties and putting down the same. The lands to be selected by the Superintendent of this Company and to be sufficient for the purpose. Whole to be conditional also upon the settlement of all pending litigation concerning the organization of this Company and as to the Board of Directors. Said lands to be conveyed to the Company upon condition they are to be used for the purpose of stations.

On motion of H. W. Scott seconded by Crawford it was Resolved That: Upon the compromise of pending litigation concerning the organization of this Company and dismissal of all actions on freight orders, the President and Secretary of this Company be and they are hereby authorized and directed to receive and cause to be received according to the terms thereof in payment for freight in the order presented all outstanding freight orders of this Company which shall appear to be genuine and duly issued by the Company and not paid or redeemed and which shall be presented in payment for freight equal in amount to the orders represented and which shall be presented within eight months from this date but not exceeding in the total amount four thousand dollars and not exceeding one thousand dollars per month.

There being no further business before the Board on

motion of H. W. Scott seconded by M. Crawford the Board adjourned.

GEO. W. WEIDLER, Vice Prest.

H. HAMPTON, Scty.

Portland, Sept. 14th 1875.

At a regular meeting of the Board of Directors of the O. C. R. R. Co. held at their office this day were present Geo. W. Weidler, V. P., T. R. Cornelius. There being no quorum present the meeting adjourned.

H. HAMPTON, Scty.

Portland, Sept. 15, 1875.

At a special meeting of the Board of Directors of the Or. Centl. R. R. Co. held this day at their office were present G. W. Weidler, V. P., in the chair, H. W. Scott, M. Crawford, T. R. Cornelius.

The Chairman having stated the object of the meeting to be the election of a director vice S. G. Reed—H. Hampton was nominated to the position by T. R. Cornelius, which nomination being duly seconded a ballot was had resulting in the unanimous election of H. Hampton as director of the Company, who qualified as follows: State of Oregon, Co. of Multnomah) ss. I, H. Hampton, being first duly sworn, say that I will support and maintain the Constitution of the United States and of the State of Oregon, and will faithfully and honestly discharge the duties of Director of the Oregon Central R. R. Co. of Portland during my term of office. So help me God.

H. HAMPTON.

Subscribed and sworn to before me this 16th day
September 1875.

(Seal)

I. R. MOORES

Notary Public.

On motion of M. Crawford seconded by T. R. Cornelius the board adjourned.

H. HAMPTON, Scty.

Office Or. Cenl. R. R. Co.

Portland, Oregon, Feb. 23, 1876.

At a special meeting of the Board of Directors of the Or. Cent. R. R. Co. held at their office this day there were present: Geo. W. Weidler, Vice Pres. in the chair, T. R. Cornelius, M. Crawford, H. Hampton.

On motion of Mr. Crawford seconded by Mr. Cornelius the following resolution was adopted:

Whereas: This Company, The Oregon Central Railroad Company of Portland is unable for want of funds to pay the taxes assessed and levied against the Company in the Counties of Washington and Yamhill in the State of Oregon, and Whereas the Road of said Company is liable to be levied upon and advertised for sale in said Counties for said taxes and unless payment thereof is made will be sold and additional costs and expenses incurred. Resolved, That this Company negotiate a loan of Milton S. Latham of the State of California for the sum of four thousand dollars in gold Coin to pay said taxes in said Counties which sum shall be made payable to said Milton S. Latham on demand with

interest at the rate of one per cent per month.

Resolved that to secure the payment of said loan the net earnings of the Road of this Company be hereby pledged and set aside monthly for the liquidation of the same until said loan shall be fully paid and discharged, and the Treasurer of the Company is hereby directed without further order to apply all such net earnings monthly until such loan and the interest thereon is fully paid. Resolved: That the President and Secretary of this Company be and they are hereby authorized and directed to execute in the name of this Co. and under its Corporate Seal or otherwise the promissory note of this Co. for the loan aforesaid and such other instruments as shall be necessary to secure payment of such loan and interest and the appropriation of the net earnings of the Road as herein provided.

The Secretary then read the resignation of H. W. Scott as Director of this Company which on motion was accepted.

Geo. V. James was then put in nomination for Director in place of Mr. Scott resigned, which nomination being duly seconded a ballot was had which resulted in the unanimous election of Mr. James as Director, who qualified as follows: State of Oregon, Multnomah Co.) SS. I, Geo. V. James being first duly sworn, say that I will support and maintain the Constitution of the United States of America and of the State of Oregon and will faithfully and honestly discharge the duties of Director of the Oregon Central R. R. Co. during my term of office. "So help me God."

GEO. V. JAMES.

Subscribed and sworn to before me this 23 day of Feb. A. D. 1876.

I. R. MOORES Notary Public (Seal)

On motion of Mr. Cornelius, seconded by Crawford, the following Resolution was unanimously adopted. Resolved: That the President and Secretary of this Company be and they are hereby authorized and directed to receive and cause to be received according to the terms thereof in payment for freight in the order presented a certain number of outstanding freight orders in the total amount not to exceed five hundred dollars the same not having been ordered to be received by a resolution adopted by the Board of Directors of this Company Sept. 3, 1875.

No further business offering itself for the action of the Board on motion Board adjourned to meet at call of the President.

GEO. W. WEIDLER, Vice President
H. HAMPTON Secretary.

Office of the Oregon Central R. R. Co.

Portland, Oregon, April 7th 1876.

At a special meeting of the Board of Directors of the Oregon Central Railroad Company held at their office this day were present Geo. W. Weidler, Geo. V. James, M. Crawford, H. Hampton, Directors.

On motion of Mr. Weidler, seconded by Mr. James, the following resolutions were adopted.

“Resolved: That this Company negotiate a loan of Milton S. Latham, of the State of California, for the

sum of Six Thousaid Dollars \$6,000 in Gold Coin, the said sum being needed to pay the wages and salaries of the servants and employees of the Company, and which sum shall be made payable to said Milton S. Latham, on demand with interest at the rate of one per cent per month in like Gold Coin.

“Resolved: That to secure the payment of said loan, that after the payment of a certain note of this Company for Four Thousand Dollars dated March 15th 1876, now held by the said Milton S. Latham, the net earnings of the Road of this Company be and are hereby pledged and set aside, monthly, for the liquidation of the same until said loan shall be fully paid and discharged, and the Treasurer of the Company is hereby directed to apply all such earnings, after payment of said note of \$4,000. monthly until such loan and interest thereon is paid.

“Resolved: That the President or the Vice President in his absence, and Secretary of the Co. be and are hereby authorized and directed to execute in the name of this Company under its Corporate Seal or otherwise, the promissory note of the Company for the loan aforesaid and such other instruments as shall be necessary to secure payment of said loan and interest and the appropriation of the net earnings of the road as herein provided.

On motion of Mr. Crawford duly seconded the meeting adjourned.

H. HAMPTON, Secty.

Office of the Oregon Central R. R. Co.

Portland, Oregon, April 20th '76.

At a special meeting of the Directors of the O. C. R. R. Co. held at their office in Portland this day were present: Geo. W. Weidler V. Pres., T. R. Cornelius, W. L. Halsey, M. Crawford, Geo. V. James, H. Hampton.

Ben Holladay's resignation as President & Director was read and offered by Mr. Hampton, and on motion of Mr. Halsey duly seconded was accepted.

Col. T. R. Cornelius was then nominated for President by G. W. Weidler seconded by Capt. M. Crawford and was elected by acclamation.

On motion of Mr. Hampton duly seconded the following preamble & resolutions were adopted.

Whereas, the Bonds issued by this Company in pursuance of a resolution of the Board of Directors of this Company passed July 11th /71, have been and now are pledged to Milton S. Latham, Trustee, as security to certain creditors of this Company for a loan of One Million of Dollars borrowed for the construction of the road of this Company; and whereas this Company is indebted in other and further amounts for moneys expended in the construction of its Railroad; and whereas by an agreement dated Feby. 29th 1876, between Ben Holladay party of the first part and Heinrich Hohe-nemser of the City of Frankfort on the Main, Prussia, Director of the Deutsche Vereins Bank in the above

City and other owners of Ten Millions more or less First Mortgage Bonds of the Oregon and California Railroad Company parties of the second part, provision is made for the release and cancellation of certain of such further indebtedness of this Company, including the claim of the North Pacific Transportation Company, a corporation incorporated under the laws of the State of California, and also for a modification advantageous to this Company of the existing contracts between this Company and the Oregon Transfer Company, a corporation incorporated under the laws of Oregon, and for other things beneficial to this Company upon condition of the issuing by this Company and delivery to said Ben Holladay or his assigns, of three hundred bonds of this Company of One Thousand Dollars each, payable in thirty years after this date to wit: March 1st 1876 bearing seven per cent interest per annum, payable semi-annually, principal and interest to be payable in Gold Coin, the interest thereon to be secured by the pledge of the net earnings of the Oregon and California Railroad Company so far as the said parties of the second part to said agreement have a right to receive or control the same as representatives of the Bondholders of said road, said bonds also to be secured by second mortgage upon the property of this Company, all of which will more fully appear by reference to said agreement; and whereas it is deemed for the best interests of this Company to carry out said agreement by the issuing and delivery of said bonds upon the

conditions and for the purposes in said agreement specified. Therefore, Resolved: That bonds of this Company to the number of three hundred of the denomination of \$1,000.00 each be issued for the purpose aforesaid or to be otherwise disposed of as shall hereafter be determined by this Board.

Resolved: That said bonds be prepared and issued by the President & Secretary of this Company and be signed by them and sealed with the corporate seal of this Company and be dated on the first day of March 1876 and to be payable to the holder thereof in Gold Coin of the United States of America thirty years after the date thereof, to wit on the first day of March 1906, with interest in like Gold Coin at the rate of seven per cent per annum, payable semi-annually on the first day of March and September of each year on the presentation and surrender of the dividend or interest warrants to be annexed to said bonds and each of them, both principal and interest, to be payable in the City of New York State of New York.

That said bonds be numbered from one to three hundred both inclusive and be in the following form:

No. \$..... United States of America, State of Oregon, Oregon Central Railroad Company, incorporated November 21st 1866. Mortgage Bonds. Know all men by these presents: That the Oregon Central Railroad Company, a body corporate, created under and pursuant to the laws of the State of Oregon, hereby acknowledge itself indebted and bound to the holder hereof, in the sum of One Thou-

sand dollars gold coin of the United States of America, which sum the Oregon Central Railroad Company hereby promises to pay at the Banking House of Messrs. Rutten & Bonn, in the City of New York, State of New York, to the said holder, on the First day of March A. D. 1906 with interest from and after March First 1876, at the rate of seven per centum per annum, payable semi-annually at the said Banking House of Messrs. Rutten & Bonn, in the City of New York, on the First day of March and September of each year after March 1st 1876 on presentation and surrender of the annexed dividend or interest warrants.

This bond is one of a series of three hundred bonds of one thousand dollars each, numbered from one to three hundred both inclusive and amounting in the aggregate to three hundred thousand dollars, and which have been made and executed by said Oregon Central Railroad Company, under express authority granted by acts of the Legislature of the State of Oregon, and also by an Act of the Congress of the United States of America approved May 4th in the year of our Lord one thousand eight hundred and seventy and entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," and for the purpose authorized by and specified in said acts, and each of them, and as security for the payment to the holders of said issue of three hundred bonds, with interest to grow due thereon, said Oregon Central Railroad Company, has duly executed, acknowledged and delivered under

the authority of said several Acts, and of resolutions unanimously passed and adopted by its Board of Directors, W. D. Shipman & S. L. M. Barlow as trustees, a mortgage or deed of trust bearing even date herewith, and whereby all the real and personal property, rolling stock, road, Depots, Stations, side tracks, wood yards, franchises and effects now owned or acquired, or hereafter to be owned or acquired by it are mortgaged and conveyed to the said Trustees, and the survivors of them as by reference to said mortgage or deed of trust, or the record thereof will more fully appear, and to which, and to all the terms and provisions thereof, reference is hereby specially made.

And as a further security for the payment to the holders of said issue of said three hundred bonds with interest to grow due thereon, the said Oregon Central Railroad Company has in the manner and upon the terms and conditions specified in the said mortgage or deed of trust irrevocably appropriated and set apart all the net proceeds of the sales of the lands granted to aid in the construction of the Railroad and Telegraph line of the said Oregon Central Railroad Company, from Portland to Astoria and McMinnville, in the State of Oregon, described and mentioned in the Act of Congress of the United States of America, approved May 4th 1870, and entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," for the creation and maintenance of a sinking fund, to be kept invested in the bonds of the United

States, or other safe and more productive securities, for the purchase from time to time and the redemption at maturity, of all said Bonds, both principal and interest, in the mode and manner specified in said mortgage or deed of trust, and to which reference is hereby made as a part hereof.

In witness whereof, the said Oregon Central Railroad Company has caused this bond to be signed by its President and attested by its Secretary and its Corporate Seal to be hereto affixed, at its office in the City of Portland, in the County of Multnomah, and State of Oregon, under the express authority of resolutions of its Board of Directors this 20th day of April the year of our Lord one thousand eight hundred and seventy six. (Signed) President (Signed) Secretary.

This is to Certify that the above bond is one of Three Hundred bonds which are embraced in the mortgage or deed of trust bearing even date herewith, made and executed by the Oregon Central Railroad Company, whereby all its real and personal property, rolling stock, equipment, road, depots, stations, side-tracks, wood-yards, franchises and effects, acquired and to be acquired, and also all the lands granted to said Oregon Central Railroad Company by the Act of Congress of the United States of America, approved May 4th 1870, and entitled an "Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," are mortgaged and conveyed to us as Trustees, subject to a prior mortgage of all said property executed to Milton S.

Latham, and Faxon D. Artherton, as trustees, dated July 15th 1871 as security for the payment of all said bonds, and which mortgage or deed of trust has been recorded in the several counties of Oregon through which the Railroad of said Company runs, and constitutes a lien or incumbrance upon the property therein described, subsequent only to the lien of said prior mortgage.

Trustees.

Resolved: That the coupons annexed to said bonds be in the following form:

\$.

The Oregon Central Railroad Company will pay to the holder hereof dollars in United States Gold Coin at the banking House of Ruetten and Bonn in the City of New York, on the first day of 18. ., being semi-annual interest on Bond No. Secretary.

Resolved: That to secure the payment of said bonds, and the interest thereon, the President and Sect'y execute and deliver in the name of the Company, and on its behalf, and as and for its act, a mortgage or deed of trust on the said railroad of this Company, now constructed or which may be hereafter constructed from Portland to Astoria, and from a suitable point of junction, at or near Forest Grove, to the Yamhill River, at or near McMinnville, in Oregon, and all the property and franchises connected with, or appertaining to the said Railroad, now owned or held, or which may hereafter be owned or held by this Company, as aforesaid.

That W. D. Shipman & S. L. M. Barlow of the City of New York, State of New York, be named in said mortgage or deed of trust, as mortgagees and trustees for the holders of said bonds, and coupons thereto annexed, and that said mortgage or deed of trust be delivered to them, they having consented to act as such mortgagees and trustees, and being hereby selected for such purpose, and that said mortgage be sealed with the Corporate seal of this Company, and be in the words and figures following, that is to say:

Rail Road Mortgage. This Indenture made this first day of March in the year of our Lord One Thousand Eight Hundred and Seventy six, between The Oregon Central Rail Road Company, a body corporate, created by and under the Acts of the legislature of the State of Oregon in that behalf made and provided, party of the first part, and W. D. Shipman and S. L. M. Barlow of the City and County of New York in the State of New York, parties of the second part.

Witnesseth: Whereas, the said party of the first part is expressly authorized and empowered in and by the Acts of the Legislature of the State of Oregon, and the Act of Congress of the United States approved May 4th 1870, and entitled an "Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon," to issue bonds and to secure payment of the same by a mortgage or deed of trust, as hereinafter set forth and provided.

And, Whereas, under and pursuant to the lawful

authority conferred by said several Acts of the legislature of the State of Oregon, and of the Congress of the United States aforesaid, the Board of Directors of the said party of the first part have unanimously resolved in substance and legal effect, that said "Oregon Central Railroad Company" make, execute, issue and deliver under its Corporate Seal, its corporate Bonds, bearing date even herewith, severally, payable to the holder thereof, at the Banking house of Messrs. Ruetten and Bonn, in the City of New York State of New York, on the first day of March 1906 with interest from and after March first 1876 at the rate of seven per centum per annum, payable at the same Bank semi-annually, principal and interest, payable in Gold Coin as follows: that is to say: That three hundred of said Bonds be made or issued for the sum of One Thousand dollars each, in the aggregate, amounting to Three hundred Thousand dollars, and no more, and that for the purpose of a more specific identification thereof, said three hundred bonds be numbered in a consecutive series from one to three hundred, both inclusive, and that upon the face of each Bond be printed or engraved a certificate signed by the parties of the second part hereto to the effect that such Bond is one of the three hundred bonds intended to be secured by these presents. And, Whereas, said Board of Directors have further unanimously resolved under and pursuant to lawful authority conferred upon said party of the first part by the Acts aforesaid in substance and legal effect, that the President and Secretary of said party of the first part execute and

acknowledge in its name, and in its behalf, and under its Corporate Seal and deliver to said parties of the second part hereto, a mortgage or deed of trust, conveying, assigning and transferring to them in trust, all its corporate real and personal property, road, depots, stations, side tracks, wood yards, franchises and effects as security for the payment of said three hundred bonds and interest to grow due thereon, and that such mortgage or deed of trust should contain all and singular the covenants, provisions and conditions hereinafter set forth, and that said mortgage or deed of trust, and the three hundred bonds thereby secured, be severally dated the first day of March, one thousand eight hundred and seventy six.

And, Whereas, the Congress of the United States of America did by an Act approved May 4th in the year of our Lord One Thousand Eight Hundred and Seventy, and entitled "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," grant to the "Oregon Central Railroad Company" and to their successors and assigns, the right of way through the public lands, of the width of one hundred feet on each side of said road, and the right to take from the adjacent public lands the material for constructing said road, also necessary lands for depots, stations, side tracks and other needful uses in operating said road, not exceeding forty acres in any one place, and also each alternate section of the public lands, not mineral, excepting coal and iron lands designated by the

odd numbers nearest said road, to the amount of ten such alternate sections per mile on each side thereof, not otherwise disposed of or reserved or held by valid pre-emption or homestead right, at the time of the passage of said Act, and in case the granting of ten full sections per mile could not be found on each side of said road, within said limits of twenty miles, other lands could be selected under the directions of the Secretary of the Interior, on either side of said road nearest to and not more than twenty-five miles from the track of said road to make up such deficiency.

And, Whereas, the said "Oregon Central Railroad Company, party of the first part hereto, in and by the terms of said Act of Congress of the United States of America, approved May 4th 1870 is required to set apart by mortgage or deed of trust, to two or more trustees, all the net proceeds of the sales of the said granted lands, as a sinking fund, to be kept invested in the Bonds of the United States or other safe or more productive securities for the purchase from time to time, and the redemption at maturity of the first Mortgage Construction Bonds of the Company on the road, depots, stations, side tracks, and wood yards, not exceeding thirty thousand dollars a mile of the Railroad, payable in Gold Coin, not longer than thirty years from date, with interest payable semi-annually in coin, not exceeding seven per centum per annum—no part of the principal or interest of said fund to be applied to any other use, until all said Bonds shall have been purchased or redeemed or cancelled, and each of the said First Mort-

gage Construction Bonds to bear the certificate of the trustees setting forth the manner in which the same is secured, and its payments provided for. And Whereas, the said "Oregon Central Railroad Company" party of the first part has heretofore issued its bonds, amounting in the aggregate to Four Millions Three hundred Thousand Dollars and as security for the payment thereof has executed a mortgage or deed of trust, of all the property conveyed or intended to be conveyed by this Indenture to Milton S. Latham and Faxon D. Atherton as trustees, which mortgage or deed of trust is dated July 15th, 1871, and is duly recorded in the Records of Mortgages of Multnomah, Washington and Yamhill Counties, in the State of Oregon, all of which bonds are now pledged to Milton S. Latham of San Francisco, in the State of California, in trust for certain creditors of this Company, as security for a loan of One Million dollars, Gold, and accrued interest.

Now Therefore, This Indenture Witnesseth: That the said Oregon Central Railroad Company" the party of the first part hereto, under, pursuant to, and by virtue of the express power and authority conferred upon, and vested in it by said several Acts of the legislature of the State of Oregon, and of the Congress of the United States of America, aforesaid, and under and pursuant to resolutions duly passed and adopted by its Board of Directors, and which are duly entered upon the official minutes of said Board, and for and in consideration of the foregoing premises, and especially for the purpose, and with the intent of better and more

effectually securing the payment of said three hundred bonds with the interest due and to grow due thereon and for and in consideration of one dollar lawful money of the United States of America, by the said parties of the second part hereto in hand fully and truly paid to the said party of the first part hereto, before the sealing and delivering of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, assigned, transferred and set over, enfeoffed, conveyed and confirmed, and by these presents, doth grant, bargain, sell, assign, transfer and set over, enfeoff, convey and confirm to the said W. D. Shipman and S. L. M. Barlow the said parties of the second part, as Trustees, and in trust, and to the survivor of them, and to their or his successors or successor, all and singular, the Railroad of the said party of the first part heretofore constructed, or hereafter to be constructed from Portland to Astoria, and from a suitable point of junction near Forest Grove to the Yamhill river near McMinnville in the State of Oregon in all a distance of one hundred and forty six and one half miles, together with all its lands, tenements and hereditaments acquired and appropriated, or which shall hereafter be acquired and appropriated for the purpose of a right of way for its Railroad, and all the appurtenances thereunto belonging, and also all its lands acquired and appropriated, or which shall hereafter be acquired and appropriated under and pursuant to the provisions of the Act of Congress of the United States of America, approved May 4th 1870 and entitled "An Act granting

lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon, and also its depots engine houses, car houses, station houses, warehouses, machine shops, work shops, superstructures, erections and fixtures and also all and singular the franchises, rights, and privileges now owned possessed or acquired, or which shall hereafter be owned, possessed or acquired, by said party of the first part, and all lands, tenements, hereditaments and real estate acquired and appropriated wheresoever and whatsoever, or now owned by said party of the first part, or which shall hereafter be owned by it, and also, all and singular the locomotives, tenders, passenger cars, freight cars, and all other cars, carriages, tools, machinery and equipments for said Railroad, and now owned or which shall hereafter be owned or acquired by said party of the first part, and also all goods and chattels now owned, or which shall hereafter be owned by said party of first part, and in any way relating or pertaining or belonging to, or connected with said Railroad, or running or operating the same together with all rents, issues, income, profits, moneys, rights, benefits and advantages derived or to be derived, had or received therefrom, by said party of the first part in any way whatsoever.

To Have And To Hold, all and singular, the premises, rights, franchises, property real and personal hereinbefore, and hereby assigned, mortgaged, pledged and conveyed or intended so to be, and every part and parcel thereof, with all the appurtenances unto the same be-

longing or in any wise appertaining, unto them the said W. D. Shipman and S. L. M. Barlow the said parties of the second part hereto, and to the survivor of them, and to their and to his successors and successor, and to their and his assigns in trust for the person or persons, firm or firms, bodies politic or corporate, who have heretofore or who shall hereafter at any time become the purchasers or holders or owners of any or either of said three hundred bonds, amounting in the aggregate to three hundred thousand dollars, subject to the terms, provisions, and stipulations in said three hundred bonds contained, and subject also to the provisions of the Act of Congress of the United States of America, affecting or relating to, or binding upon the party of the first part, and subject also to the prior lien of said mortgage of July 15th 1871, executed by the party of the first part, to Milton S. Latham and Faxon D. Atherton Trustees, in favor of all persons, firms or corporations who have acquired or may hereafter acquire an interest in or become the owners of any of the said bonds secured thereby, and also subject to the possession and management of said Railroad, and property of said party of the first part, and its successors or assigns, so long as no default shall be made in the payment of either the interest or principal of said three hundred bonds, or in or to either of them, or so long as the party of the first part shall well and truly observe, keep and perform, all and singular, the covenants, agreements, conditions and stipulations in such three hundred bonds and in This Indenture contained and set forth, and

which are to be observed, kept and performed by and on the part of the said party of the first part.

And the said "Oregon Central Railroad Company" the party of the first part, has covenanted and agreed, and by these presents doth, for itself, its successors and assigns, covenant and agree with the parties of the second part hereto, and the survivor and survivors of them, and their and his successors and successor, in manner and form following, that is to say:

FIRST, that said "Oregon Central Railroad Co." the party of the first part and its successors, shall and will pay or cause to be paid, all taxes, charges, rates, levies and assessments imposed, assessed or levied or wh may hereafter be imposed, assessed or levied upon the premises, franchises and property hereby mortgaged, conveyed and assigned, or intended so to be, and shall and will, at its own proper cost, expense and charges do or cause to be done all acts and things necessary and proper to be done or performed, in order to preserve and keep valid and intact the lien or incumbrance upon all and singular the aforesaid premises, property and franchises, hereby created or intended so to be, and that except the lien of said mortgage of July 15th 1871 there is no lien upon the property conveyed or intended to be conveyed by this Indenture at the ensealing and delivery thereof.

SECOND. That said "Oregon Central Railroad Company," the party of the first part, and its successors shall and will, at any time or times hereafter, and from time to time, execute, acknowledge, and deliver under its

corporate seal, to the said parties of the second part, and the survivors or survivor of them and their or his successors or successor such other and further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing and shall and will do and perform all such further or other acts or things, as shall or may be proper or necessary, or as their or his council learned in the law shall deem necessary, proper or expedient for the better or more effectually securing the payment of said three hundred bonds, and the interest due or to grow due thereon, or for carrying into effect the true intent, design, objects and purposes of these presents, or making, preserving, continuing and keeping valid and effectual the lien and incumbrance created or intended to be created by the execution, delivery and recording of this Indenture, upon all the property real and personal, rolling stock, equipments, franchises and effects, and especially the lands referred to in and by the said Act of Congress approved May 4th 1870, now owned, possessed or acquired or which shall hereafter be owned, possessed or acquired by said party of the first part.

THIRD. And for the purpose of fully and more effectually securing the payment of the said three hundred bonds, together with interest due or to grow due thereon the said "Oregon Central Railroad Company" the party of the first part hereto for itself and its successors hath pledged, and hereby doth irrevocably pledge for the purpose and objects hereinbefore specified to and with the said parties of the second part, and the survivors and survivor of them, their and his successors and

successor, all and singular, the net proceeds of the sales of the lands granted to the party of the first part by the Act of Congress approved May 4th 1870, hereinbefore mentioned, subject however to the prior pledge of the same, in and by said mortgage hereinbefore referred to of July 15th 1871, and for the purposes therein specified, as a sinking fund, to be kept invested by the parties of the second part in the Bonds of the United States or other safe and more productive securities for the purchase, from time to time, and the redemption at maturity of the three hundred bonds of the party of the first part hereinbefore particularly described, and no part of the principal or interest of the said fund shall be applied to any other use, until all the said Bonds shall have been purchased or redeemed and cancelled.

And, in the event that the principal of said three hundred bonds is not otherwise paid at the maturity thereof, then the fund aforesaid after satisfaction of the lien, if any, of said Mortgage and pledge of July 15th 1871, which shall then have accrued from the proceeds of the sales of said lands, and interest thereon, shall be by said trustees, parties of the second part, or the survivor of them, their or his successors or successor, applied to the discharge and payment of any and all amounts, both principal and interest, then remaining due and unpaid on all such bonds, and if such bonds shall then be insufficient to discharge the whole amount then due on all such bonds, the same shall then be applied ratably thereon according to the interests respectively of all such bondholders. AND, It is further stipulated

and agreed between the parties hereto that if there remains any deficit in the payment of the principal and interest due on said three hundred bonds after the whole of the fund aforesaid shall be applied thereon, at the maturity thereof, then the trustees, parties of the second part hereto their successors or successor shall have full power and authority to sell and convey any and all lands then remaining undisposed of which are included in the grant made by Act of Congress aforesaid and which are hereby conveyed and intended to be conveyed in whole or in part, as the said trustees may deem best for the interests of said Bondholders and as may be prescribed or limited by any act of Congress in force at the time of such sale; and if there shall be no such prescription and limitation by law, then said lands shall only be sold at public auction in the City of Portland, in the State of Oregon, to the highest bidder, and no such sale shall be made unless notice of the time and place thereof shall first be given by publication for at least six weeks in a weekly newspaper of general circulation published in the City of Portland, State aforesaid, and the proceeds of such sale or sales, after satisfaction of the lien, if any, of said mortgage and pledge of July 15th 1871, shall be applied in like manner to the payment of any balance either principal or interest then remaining unpaid on such bonds aforesaid or any of them.

And, It is hereby expressly covenanted, agreed and understood by and between the parties to these presents, that notwithstanding the execution and delivery of these

presents and of the covenants herein contained, the said "Oregon Central Railroad Company" the party of the first part hereto shall have the right at any time after the execution of these presents to make sales of all and singular the lands granted to said Company by Act of Congress of the United States, approved May 4th 1870, aforesaid, in the manner and mode prescribed therefor by law and that the parties of the second part shall and will at any time after the delivery to them of this Indenture, upon the request of the party of the first part and upon the receipt by the parties of the second part from the party of the first part of so much of the price or consideration for said lands as shall remain after satisfaction of the lien of said mortgage and pledge of July 15th 1871 make, execute and deliver such release, discharges and assurances in respect to said lands as the party of the first part or its counsel learned in the law may require, for the purpose of making good and sufficient title to said granted lands so sold to any and all purchasers thereof, clear and free from all lien or incumbrance created by these presents, and all net proceeds received from the sales of all or any of the lands granted or intended to be granted by said Act of Congress, after satisfaction of said prior lien, shall be received and held jointly by the parties of the second part and the President of the party of the first part and shall be held subject to their control, and shall be immediately and as soon as practicable after the same are received invested by said parties of the second part by and with the consent of the President of the party

of the first part in United States Bonds, or other more productive securities, which securities shall be under the control of the said parties of the second part and the said President of the party of the first part, and shall be used solely for the purposes herein specified, and it is expressly understood and agreed that the lien created by this Indenture on said lands granted by said Act of Congress shall upon the sale of any portion of said lands as aforesaid, and the application of the purchase price thereof as herein provided cease so far as the same relates to the portions of the land so sold. The parties of the second part shall not have the right to make sales of any said lands without the consent of the party of the first part.

FOURTH. That said "Oregon Central Railroad Company" the party of the first part hereto shall and will well and truly pay the said sums of money in said three hundred bonds mentioned, together with the semi-annual interest due or to become due thereon, at the rate of seven per centum, at the times, in the manner and at the place specified therein; and further, said "Oregon Central Railroad Company" hereby covenants and agrees, that in case it shall have for the period of six months made default in the payment of the semi-annual interest due or to become due on either or any of the said three hundred bonds, or in case it shall fail to appropriate and set apart in the hands of the said parties of the second part, all and singular the net proceeds of the sales of the said lands granted to the party of the first part by the Act of Congress of the United

States as aforesaid, as and for a sinking fund for and to be applied in payment or redemption of said three hundred bonds in the manner and subject to the conditions hereinbefore and in said Act of Congress specified, then and in either of said cases after the lapse of said six months the whole principal sum mentioned in each and all of said three hundred bonds shall forthwith be and become due and payable, and the lien or incumbrance hereby created for the security and payment thereof may be at once enforced, anything in said bonds or in this Indenture to the contrary notwithstanding, and that it shall and may be lawful and the said parties of the second part and the survivors or survivor of them and their and his successors or successor are hereby expressly authorized and empowered upon the request in writing of the holders of the at least an hundred of the said three hundred bonds, to enter into and upon and to take actual possession of all and singular the railroad premises, franchises, rights, property, real and personal, and effects hereby granted, conveyed, assigned, mortgaged, pledged transferred and set over or intended so to be as a security for the payment of said three hundred bonds, and by themselves or their agents to take, collect and receive the tolls, earnings, income and profits thereof, and every part thereof, or to be derived therefrom, and that they, said parties of the second part, and the survivors and survivor of them and their and his successors and successor, shall and may proceed and are hereby expressly authorized and empowered thereupon, but within such

reasonable time as they may deem proper, not less than sixty days, and upon and after public notice by advertisement for at least six weeks in one or more newspapers published in the Cities of New York, State of New York, and San Francisco, State of California, and Portland, State of Oregon, to proceed to sell at public auction, in said City of Portland, to the highest bidder subject to any prior lien if any there shall be under said mortgage of July 15th 1871, as well all and singular the said railroad rights and franchises as all other the property real and personal and premises hereby granted, conveyed, assigned, mortgaged, pledged, transferred and set over, or intended so to be, and all benefit and equity of redemption whatsoever of the said "Oregon Central Railroad Company," the said party of the first part hereto, of, in and to the same and every part and parcel thereof, together with the benefit of the franchises belonging thereto or connected therewith. And as the Attorney or attorneys of the said "Oregon Central Railroad Company," the said party of the first part hereto, for that purpose by these presents duly appointed and constituted, the said parties of the second part and the survivors and survivor of them, and their and his successors and successor, shall have full power and authority to make, execute and deliver to the purchaser or purchasers thereof, a good, valid and sufficient deed or deeds, conveyance or conveyances, assignment or transfer, in fee simple, or otherwise, of said Railroad, lands, tenements and real estate, and of all and singular the said personal or other prop-

erty rights and premises hereby granted, assigned, transferred or conveyed as aforesaid, which sale so to be made, as aforesaid, and which deeds, conveyances, assignments and transfers, so to be made and delivered as aforesaid, shall operate to convey, assign, transfer and vest in said purchaser or purchasers all the right, title, interest and estate whatsoever reversionary or otherwise, of the said "Oregon Central Railroad Company," the party of the first part, of, in and to the premises so sold, conveyed, assigned or transferred, and which said sales to be made shall be a complete and perpetual bar, both at law and in equity, against the said "Oregon Central Railroad Company" the party of the first part, its successors and assigns, and all persons or parties claiming by, from or under it or them in any wise or manner whatsoever, and that out of the moneys or proceeds arising either from said tolls, earnings or receipts of said Railroad or premises, or at or from said sale so to be made as aforesaid, after first deducting the expenses, disbursements, costs, charges and counsel fees incurred in and about the conducting of said sale, or running and operating said Railroad, that they the said parties of the second part, and the survivors and survivor of them, their and his successors or successor, shall pay said three hundred bonds, or so many as shall be then outstanding and unpaid, together with all arrears of interest then due or owing on the same, rendering or paying over the surplus of all such moneys, if any there shall be, to the said party of the first part hereto, its successors or assigns.

Provided Always, and this Indenture is upon the express condition, that if the existing bonds of the party of the first part secured by said mortgage or deed of trust of July 15th, 1871, shall hereafter be retired and cancelled and the said mortgage extinguished, said "Oregon Central Railroad Company" party of the first part, may create a new mortgage upon its road, lands and property, in this Indenture conveyed and intended to be conveyed to secure its bonds to be issued to an amount including said three hundred bonds, of not exceeding twenty thousand dollars a mile of its road, which bonds shall be issued only in proportion and as fast as such road is completed, and of which bonds said three hundred bonds shall form a part, and upon the execution of such mortgage securing said three hundred bonds as aforesaid, and the completion of the road of said Company to Junction City in the County of Lane in the State of Oregon, this mortgage shall thereupon be surrendered up, extinguished, and cancelled of Record and the lien thereof shall thereupon cease. And provided further, and this Indenture is upon the express condition that in case of an arrangement by which the said "Oregon Central Railroad" or the Oregon and California Railroad shall be sold or transferred to or combined with any other Railroad Company or corporation and upon any such sale or reorganization or combination new bonds of any kind shall be issued by such other Railroad Company or corporation and paid for, the said road so sold or transferred then and in any such case an equal number of such new bonds or an

amount the annual interest upon which shall be equal to the interest payable upon said three hundred bonds shall be offered to the owners and holders of said Three Hundred Thousand dollars of bonds to be secured by this Indenture, and in case such new bonds shall be equal in value to the bonds of Pacific Railroad Company, or shall be guaranteed by the Central Pacific Railroad Company or other corporations of equal financial standing, then the owners and holders of said bonds shall accept the same and shall by the purchase of the same to be deemed to have agreed with said Company to accept the same, at any time within six years from March 1st 1876 in lieu of said three hundred bonds secured by this Indenture, and the lien of this Indenture shall thereupon cease and the same shall be surrendered up and cancelled of Record.

This Indenture Further Witnesseth: and these presents are upon the express condition that upon payment in full of said three hundred bonds and the interest due thereon, then these presents and the estate hereby granted shall cease and be void, and The Oregon Central Railroad Company" the party of the first part, shall be immediately and fully reinvested with the said premises hereby granted in law and in fact without any entry or other act whatsoever, and that until default shall be made by said party of the first part hereto either in payment of said three hundred bonds or in payment of the interest due or to grow due thereon, as aforesaid, or in operating and setting apart in the hands of the parties of the second part, their

successors or successor, all and singular, the net proceeds of the sales of said lands granted by the Act of Congress aforesaid, as a sinking fund to be kept invested in Bonds of the United States or other safe or more productive securities for the purposes hereinbefore mentioned and described or in keeping and observing any of the covenants and agreements hereinbefore contained, the said "Oregon Central Railroad Company" the party of the first part, and its successors and assigns, shall remain in the quiet and peaceable possession and enjoyment of the said premises and property hereby granted or conveyed, or intended so to be, as aforesaid.

This Indenture Further Witnesseth: And it is hereby expressly agreed, that in case of the death, resignation, incapacity or inability of any or either of the parties of the second part, to act in the execution of any of the trusts aforesaid, then it shall and may be lawful, and the remaining acting, surviving or competent Trustee or Trustees, and the President for the time being of the party of the first part, are hereby empowered to select and appoint by an instrument in writing, under their hands and seals, which shall be recorded in the same offices where this Indenture shall be recorded, one or more competent persons to fill the vacancy or vacancies so created in the manner aforesaid, and that in case of the death, resignation, incapacity or inability of both of said parties of the second part at the same time, then and in that case it shall and may be lawful, and the President alone for the time being of said party of the first part is hereby empowered in

like manner to select and appoint competent persons to fill the vacancies thus created, and that such person or persons so appointed, trustee or trustees, shall have and possess and be invested with the same rights and power as a trustee or trustees as he or they would have had and possessed or been invested with had he or they been originally made a party or parties of the second part to this Indenture, and shall perform the same duties in all respects, and until such appointment shall be so made in the manner aforesaid, and notwithstanding any vacancy or vacancies as aforesaid, said remaining surviving, acting or competent trustee or trustees shall have full power and authority to execute each and all the trusts hereby created, and their and his acts in the premises shall be as legal, valid and effectual in all respects and to all interests and purposes as if the same acts had been done and performed by all the parties hereto of the second part, and in case said appointment shall be made in the manner aforesaid, said party of the first part hereby covenants to make, execute and deliver all such other and further instruments, deeds, indentures or assurances as may be necessary to enable the person or persons so appointed to execute the trusts hereby created and declared, as fully and perfectly in all respects as he or they could have executed the same if originally made a party or parties of the second part to this Indenture.

In Witness Whereof: The said "Oregon Central Railroad Company" the party of the first part hereto, hath caused these presents to be subscribed by its Presi-

dent, and attested by its Secretary, and hath, under the express authority of the Resolutions of its Board of Directors, caused its Corporate Seal to be hereunto affixed, and the parties hereto of the second part, for the purpose of signifying their acceptance of the trusts hereby and herein created have hereunto subscribed their names and affixed their respective seals.

All Done the day and year first above written.

(Seal) (Signed) T. R. CORNELIUS,
President of the Oregon Central Railroad Company.

(Signed) H. HAMPTON,
Secretary of the Oregon Central Railroad Company.

)
) Trustees.

Sealed and delivered in presence of)
)

State of Oregon, County of Multnomah. SS. Be It Remembered, That on this day of A. D. One Thousand Eight Hundred and seventy-six, before me, the undersigned, a Notary Public in and for the said County of Multnomah and State of Oregon, duly commissioned and qualified, personally came, President of the "Oregon Central Railroad Company" and Secretary of the "Oregon Central Railroad Company" whose names are subscribed to the foregoing Mortgage or deed of trust as the parties thereto, and as the President and Secretary of said "Oregon Central Railroad Company" both personally known to me to be the individuals named and described in, and who executed the said mortgage or deed of trust, and they severally

acknowledged to me that he the said as President of the said "Oregon Central Railroad Company," and he the said as Secretary of the said "Oregon Central Railroad Company," executed the foregoing mortgage or deed of trust, as and for the act and deed of the said Oregon Central Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned. And he, the said being by me duly sworn, did depose and say, that he is the Secretary of the said "Oregon Central Railroad Company" and resides in the City of Portland, Multnomah County, in the State of Oregon; that he is the legal custodian of, and has in his possession, and is acquainted with the Corporate Seal of the said "Oregon Central Railroad Company;" That the seal affixed to the within and foregoing Mortgage or deed of trust is such Corporate Seal; That the same was so affixed by him as Secretary of said Company on theday of A. D. One Thousand Eight Hundred and Sixty-six, by order of the Board of Directors of said Company, and that he signed his name as Secretary thereto by the like order of the said Board of Directors.

In Witness Whereof: I have hereunto subscribed my name and affixed my Notarial Seal the day and year above written, at the City of Portland, Multnomah County, State of Oregon.Notary Public in and for the County of Multnomah, State of Oregon.

State of Oregon, Department of State: ss. I, S. F. Chadwick, Secretary of State of the State of Oregon,

do hereby certify that whose name is subscribed to the foregoing and annexed certificate of acknowledgment to said mortgage or deed of trust, was at the time of taking such acknowledgment, and signing such certificate, to wit: on the day of A. D. One Thousand Eight Hundred and Seventy-six, a duly commissioned, qualified and acting Notary Public in and for the County of Multnomah and State of Oregon, and that he then was by the laws of the State of Oregon duly authorized and empowered to take and certify under its Notarial Seal, acknowledgments of deeds of conveyance and mortgages and deeds of trust, and his signature to such certificate is genuine, also his Notarial Seal, and that full faith and credit are due to his official acts as such.

Witness my hand and the Great Seal of the State at my office in the City of Salem, State of Oregon, this day of A. D. One Thousand Eight Hundred and Seventy-six.

Secretary, State of Oregon.

Resolved, The President and Secretary be, and they are hereby authorized and empowered to do and perform each and every act and thing necessary or proper to be done or performed under or by virtue of the foregoing resolutions.

No. 1. On motion of Mr. Hampton duly seconded the following preamble and resolutions were adopted.

No. 2. On motion of Mr. Halsey duly seconded, the following preamble and resolutions were adopted.

Whereas it is deemed by this Board for the interests of this Company in order to secure the prompt delivery for shipment at their depots and stations at and within the City of Portland of all freight to be shipped from said City upon the road of this Company, and the prompt delivery of all freight arising at said City of Portland over the road of this Company to the consignees thereof and other advantages secured to this Company by an agreement hereinafter set forth, to enter into a contract with the Oregon Transfer Company, a corporation duly incorporated under the laws of Oregon and having its principal office and place of business at the City of Portland, Oregon, of which contract the following is a copy, to wit:

Therefore, Resolved, that the President and Secretary of this Company be and they are hereby authorized and instructed to execute said agreement in the corporate name of this Company and for and as the act of this Company under their official signature and under the Corporate Seal of this Company.

This Agreement, made and entered into, at Portland, Oregon, this 29th day of April, A. D. One Thousand Eight Hundred and Seventy-six, between the Oregon Transfer Company, a corporation duly incorporated and organized under the General corporation laws of the State of Oregon, and having its principal office and place of business at Portland, Oregon, party of the first part, and the Oregon Central Railroad Company, a corporation duly incorporated and organized under the said laws of the State of Oregon and

having its principal office and.....

On motion of Mr. Halsey duly seconded the following preamble and resolutions were adopted.

Whereas, it is deemed by this Board for the best interests of this Company in order to secure the prompt delivery for shipment at their depots and stations at and within the City of Portland of all freight to be shipped from said City upon the Road of this Company, and the prompt delivery of all freight arriving at said City of Portland over the Road of this Company to the consignees thereof and the other advantages secured to this Company by an agreement hereinafter set forth, to enter into a contract with the Oregon Transfer Company, a Corporation duly incorporated under the laws of Oregon, and having its principal office and place of business at the City of Portland, Oregon, of which contract the following is a copy, to wit:

This Agreement, made and entered into, at Portland, Oregon, this twenty-ninth day of April, A. D. One Thousand Eight Hundred and seventy-six between the Oregon Transfer Company, a corporation duly incorporated and organized under the General corporation laws of the State of Oregon, and having its principal office and place of business at Portland, Oregon, party of the first part, and the Oregon Central Railroad Company, a corporation duly incorporated and organized under the said laws of the State of Oregon, and having its principal office and place of business at the said City of Portland, party of the second part, Witnesseth: That in consideration of one dollar paid

by each to the other of the parties to this Agreement, the receipt whereof is hereby acknowledged, and of the mutual agreements of the parties hereinafter contained, and the mutual benefits resulting and to result to the parties to this agreement under this agreement, it is now covenanted and agreed by and between the said parties of the and second parts hereto as follows:

First. The said Oregon Transfer Company, party of the first part herein, for itself, its successors and assigns, does in consideration aforesaid covenant and agree to and with the said Oregon Central Rail Road Company, its successors and assigns, that it, the said Oregon Transfer Company and its successors and assigns, will for the period and term of ten years next immediately following after the date of these presents, furnish all drays, trucks, horses or mules, and drivers and other persons necessary from time to time to take, and shall and will operate the same, and take, transfer to and from the depots, stations, warehouses of the said Oregon Central Rail Road Company in the said City of Portland, all freight coming either way over the said Oregon Central Rail Road, to and from any and all points in the said City of Portland in the State of Oregon, and will during the said term of ten years, carry, transport and convey all such freight passing over said Rail Road either way, That is to say: All freight coming from the South over said Rail Road to any point within said City of Portland to which the same is consigned or at which it is to be delivered, and all freight to be shipped South over said Road from any point

within said City, to the said Depots, Stations and Warehouses as the Railroad Company may request, with promptness and dispatch, and without unreasonable delay, and so as to keep the depots, stations and warehouses clear from freight.

Second. In consideration whereof, the said Oregon Central Rail Road Company, party of the second part herein, for itself, its successors and assigns, covenants and agrees to and with the said The Oregon Transfer Company, party of the first part herein, that it, the said The Oregon Transfer Company, party of the first part herein, its successors and assigns, shall for and during the said term of ten years after the date of this agreement, have the sole and exclusive right and privilege of conveying and transporting from said Depots, Stations and Warehouses of the said The Oregon Central Rail Road Company, party of the second part, all freight of every description coming over the Rail Road of the Oregon Central Railroad Company, its successors or assigns, to such point or place within the City of Portland to which said freight may be directed or consigned, or at which it is to be delivered, and the sole and exclusive privilege and right of conveying and transporting to said Depots, Stations and Warehouses from any point or place within the said City of Portland, all freight of every description that may during said term of ten years go from said City of Portland to said Depots, Stations or warehouses, or that may during said time go or be forwarded Southward over said Rail Road, from any point within said City. And

the said Oregon Central Railroad Company, party of the second part, in further consideration of the covenants and agreements aforesaid to be by the said party of the first kept and performed for itself, its successors and assigns, covenants and agrees to and with the said party of the first part, its successors and assigns, that it, the said party of the second part, its successors and assigns, shall and will during said term of ten years next ensuing after the date of this agreement pay or cause to be paid monthly, at the end of each and every month during said period of ten years, in United States Gold Coin, so long as the business of the said party of the second part shall continue to be conducted upon a coin basis, but should at any time during said period the business of the party of the second part be conducted upon a currency basis, and freights and fares received in currency, then and in that case, in currency to said Oregon Transfer Company, party of the first part, or its successors or assigns, the following sums and rates for all freight transported over said Rail Road of the party of the second part, coming to or passing through the City of Portland, and upon all freight shipped from the said City of Portland transported South over said Road, to wit: Fifty cents per ton for all such freight except Wool, Stone and Lumber, and on all Wool One dollar per ton, and on all Lumber One dollar per thousand, and on all Stone One dollar and fifty cents per ton; Provided that nothing shall be paid to said party of the first part by the party of the second part for any such freight for which drayage or compensation for

handling or hauling has been paid, by either the Oregon and California Rail Road Company or the Oregon Steamship Company, Corporations under the laws of Oregon, to said party of the first part, where such freight requires but one haul.

It is further expressly understood, covenanted and agreed by and between the parties hereto.

First. That if the said Oregon Transfer Company, party of the first part, shall at any time during said term of ten years fail or neglect to furnish all drays, trucks, horses or mules, drivers and persons necessary to carry and transport all freight as hereinbefore specified, to and from the Stations, Depots and warehouses of said Oregon Central Rail Road Company, party of the second part, and to convey and transport the same, as fast as the business of said Company may require, so as to keep such Depots and warehouses clear of freight arriving by said Road, that then and in that case said Oregon Central Railroad Company, its successors and assigns, may have such freight for the time being, and during such neglect or failure of the party of the first part, carried, transported and delivered by any other Corporation, firm, person or persons, upon such terms and for such reasonable compensation as shall be by the party of the second part deemed necessary to pay therefor, and for all such freight so conveyed and transported, said party of the first part shall receive no compensation and whatever sum so necessarily paid to such Corporation, firm, person or persons for such services over and above the contract price herein provided, shall

be charged to said party of the first part, and deducted out of the monthly payment to said party of first part herein provided for for the month in which such payment was made.

Second. That should the said party of the first part, the said Oregon Transfer Company, at any time during said term of ten years from the date of this contract, wilfully refuse, neglect or fail for the period of thirty days to furnish the transportation hereinbefore provided, or to convey, transport and deliver all freight hereinbefore specified, and as hereinbefore provided, then and in that case the said party of the second part may at its option declare this agreement forfeited, and may, by notice to the party of the first part terminate the same, and shall thereupon be fully and absolutely relieved from all obligations thereunder, and may make other provision for the performance of the services agreed to be by the party of the first part performed under this contract.

Third. That in case of any failure on the part of said party of the first part to keep and perform any of its covenants and agreements herein, and in consequence of such failure any goods which should have been delivered by the party of the first part under this agreement to the consignees, or at any point or place within the City of Portland, or any freight delivered at the Depots or Stations of said parties of the second part within the said City of Portland for shipment which might and would have been shipped before its loss, except for such wilful neglect and failure of the party

of the first part, shall be lost by fire, explosion, flood, theft, robbery, or any other cause whatever, to the loss or damage of the said party of the second part, without any fault or negligence of the said party of the second part, its Agents or Employes, then in that case said party of the first part shall repay all such loss, damages, costs and disbursements as shall be sustained thereby, by said party of the second part, and which it shall be compelled to pay by any action, suit or proceeding, or shall pay without action, suit or legal proceeding upon compromise or otherwise by consent of the party of the first part.

In Testimony Whereof, the parties to these presents, the Oregon Transfer Company and the Oregon Central Rail Road Company, by resolutions of their respective Boards of Directors, have caused these presents to be signed by their respective Presidents and Secretaries, and their Corporate Seals to be hereto affixed at the City of Portland, Oregon, this twenty-ninth day of April, A. D. 1876.

(Seal) (Signed) Geo. V. James,
President Oregon Transfer Company.

(Signed) Ed. F. Albright,
Secty. O. T. Co.

(Signed) T. R. Cornelius,
President Oregon Central Railroad Company.

(Seal) (Signed) H. Hampton,
Secretary Oregon Central Railroad Company.

Therefore, Resolved, that the President and Secre-

tary of this Company be and they are hereby authorized and instructed to execute said agreement in the Corporate name of this Company and for and as the act of this Company under their official signatures and under their corporate seal of this Company.

On motion of Mr. Halsey, duly seconded, the meeting then adjourned.

H. Hampton, Secty.

T. R. Cornelius.

Office of the Oregon Central R. R. Co.

Portland, Or., April 29th, 1876.

Pursuant to call by the President the Board met at 11 o'clock A. M. this day. Members present: T. R. Cornelius, Geo. V. James, M. Crawford, Geo. W. Weidler, H. Hampton, five (5) Absent William L. Halsey, 1.

Vacancy of Ben Holladay, resignation accepted at meeting of this board on 20th April 1876, 1.

During the reading of the minutes, Mr. Crawford moved that the further reading of the minutes of previous meeting be dispensed with. Motion seconded by Mr. Weidler and passed, and further reading thereof dispensed with.

The following letter of resignation was then read to the board :

To the President and Board of Directors of the Oregon Central Railroad Company.

I hereby tender my resignation as Director of said Company, April 29th, 1876.

(Signed) Geo. V. James.

Mr. Crawford moved that the resignation of Mr. James as Director of this Company be accepted. The motion was seconded by Mr. Weidler, and on being put to vote was passed, and the President declared the position vacant.

Mr. Crawford then moved that the Board now proceed to the election of a stockholder to fill the vacancy occasioned by the resignation of Mr. James. Motion seconded by Mr. Weidler and passed.

Mr. Henry Villard was then put in nomination for Director to fill said vacancy for the unexpired term, and on the vote being taken received all the votes cast, and was declared unanimously elected such Director.

Mr. Villard being present qualified as such Director by taking and subscribing to the following oath:

State of Oregon, County of Multnomah, ss, I , Henry Villard, being first duly sworn, say that I will honestly and faithfully discharge the duties of Director of the Oregon Central Railroad Company during my term of office. So help me God.

(Signed) HENRY VILLARD,

Sworn and subscribed to before me this 29th day of April, 1876.

(Seal) (Signed) I. R. Moores, Notary Public).

Mr. Villard then took his seat on the board.

The following letter was then read to the board:

Office of the Oregon Central Railroad Co.

Portland, Or. April 29th 1876.

To the President and Directors of the Oregon Central R. R. Co.

Gentlemen: I hereby resign as Secretary and Treasurer and Director in your Company. Your ob't sv't.

(Signed) H. Hampton.

Mr. Crawford moved that Mr. Hampton's resignation as set forth in his letter just read be accepted, seconded by Mr. Weidler, and passed. The President announced the positions vacant.

Mr. Villard moved that the board now proceed to fill said vacancies as provided by the By-Laws.

Mr. Crawford then nominated A. G. Cunningham for Secretary to fill the vacancy occasioned by the resignation of Mr. Hampton, seconded by Mr. Weidler, and upon being put to vote Mr. Cunningham received all the votes cast and was declared unanimously elected such secretary for the unexpired term.

Mr. Cunningham being present entered at once upon the duties thereof.

Mr. Crawford then nominated Mr. Richard Koehler for Director to fill the vacancy occasioned by the resignation of Mr. Hampton, seconded by Mr. Villard, was put to vote and receiving all the votes cast, was declared unanimously elected such Director for the unexpired term.

Mr. Koehler being present qualified as such Director by taking and subscribing to the following oath.

State of Oregon,)
) ss.
County of Multnomah.)

I, R. Koehler, being first duly sworn, say that I will honestly and faithfully discharge the duties of Director of the Oregon Central Railroad Company during my term of office, so help me God.

(Signed) R. Koehler.

Sworn and subscribed to before me this 29th day of April 1876.

(Signed) I. R. Moores,

(Seal)

Notary Public.

Mr. Koehler then took his seat on the Board.

The President here stated for information of the board that the loan of six thousand dollars authorized by resolution of this board passed at the session held on April 7th, 1876 had been placed and the money obtained for the use of the Company as therein provided.

The President further stated that the inspection of the additional section of the road had been provided for. That Mr. C. H. Lewis had been appointed Commissioner by Secretary of the Interior Department of the United States to fill the vacancy in said Commission occasioned by the death of Thos. Savier, Esq., and that Tuesday the 2d day of May had been decided upon as the day for making the necessary examination of the road, and as the Company was without a Chief Engineer and it being necessary for that officer to accompany the Commissioners on their inspection, he would now appoint Mr. Hans Thielsen such Chief Engineer.

After some discussion in reference to outstanding Freight and Passage warrants, and the sum already paid by the Company on account of such warrants.

Mr. Villard offered the following:

Resolved, That the President and Secretary of this Company be and they are hereby authorized, if in their judgment the interests of this Company require, to pay in freight and passage in the usual course of business any outstanding freight and passage orders in excess of the four thousand dollars of such orders authorized to be paid by the resolution of Sept. 3d, 1875, but not to exceed one thousand dollars in addition to said amount authorized by said resolution,—seconded by Mr. Koehler and passed, declared unanimously adopted.

Mr. Villard then moved that the Board proceed to elect a Treasurer and nominated A. G. Cunningham for Treasurer to fill the vacancy occasioned by the resignation of Mr. Hampton.

Motion seconded by Mr. Koehler, and Mr. Cunningham having received all the votes cast was declared unanimously elected such Treasurer for the unexpired term.

The Company's attorney then read the following preamble and resolution for the consideration and action of the Board.

Whereas, in the opinion of the Board it is to the best interests of this Company that it assent to and execute as a party an agreement of which the following is a copy, to wit:

This Agreement, made and entered into this day of 1876, between the Oregon Steamship Company, a Corporation duly incorporated and organized under the laws of the State of Oregon, party of the first part, The Oregon and California Railroad Company, a like corporation, duly incorporated and organized under the laws of said State, party of the second part, The Oregon Central Railroad Company of Portland, Oregon, a like corporation duly incorporated and organized under the laws of said State, party of the third part, Certain creditors of the said Oregon Steam Ship Company represented by Milton S. Latham, Trustee and attorney in fact, party of the fourth part, Certain creditors of the said Oregon Central Railroad Company represented by Milton S. Latham, their Trustee and attorney in fact, party of the fifth part, and Heinrich Hohenemser of the City of Frankfort on the Main, Prussia, Director of the Deutsche Vereins Bank of the same city, Julius Schmidt, banker of the City of Frankfort on the Main, Paul Remgoman, Doctor of law and attorney at law of the City of Frankfort on the Main, Herman Koehler, merchant of the City of Frankfort on the Main, Adolph Otto, Doctor of law and attorney at law of the City of Heilbronn, Kingdom of Wurtemberg, Michael Benjamin, banker of the City of Munich, Kingdom of Bavaria, Carl Stachelin-Buckner of the City of Basle, Switzerland, partners in the house of Messrs. Iselin and Stachelin, by Henry Villard of the City of Heidelberg, Grand Duchy of Baden, their attorney in fact, and the said Henry Villard, owners or

possessors of certain first mortgage bonds of the Oregon and California Railroad Company, and known as the Frankfort Committee, as parties of the sixth part, Witnesseth:

Whereas, on the 25th day of July, A. D. 1874, the said Oregon Steamship Company, as party of the first part, the said Oregon and California Railroad Company, as party of the second part, Heinrich Hohenemser, Director of the Deutsche Vereins Bank at Frankfort on the Main, Aron Neiderhofheim, Manager of the Branch of the Bank of Commerce and Industry at Frankfort on the Main, Julius Schmidt, merchant at Frankfort on the Main, Adolph Otto, Counsel at law at Heilbronn, in the Kingdom of Wurtemberg, Michael Benjamin, Director of the Baierische Wechsler Bank at Munich, in the Kingdom of Bavaria, Carl Stachelin-Buckner, of the firm of Iselin and Stachelin of Basle in Switzerland, F. S. Van Neirop, Director of the Bank of Amsterdam, in the Kingdom of the Netherlands, and William Koester of the firm of Koster and Company at Manheim, in the Grand Duchy of Baden, by Henry Villard of Heidelberg in the Grand Duchy of Baden, their attorney in fact, and the said Henry Vilard of Heidelberg in the Grand Duchy of Baden, for themselves, their executors, administrators, successors and future holders of the Bonds of the Oregon and California Railroad Company, as parties of the third part, certain creditors of the said Oregon Steamship Company, represented by Milton S. Latham as Trustee and attorney in fact, for themselves, their heirs, executors, administrators, successors and as-

signs, as party of the fourth part, and certain creditors of the said Oregon Central Railroad Company, represented by Milton S. Latham as their Trustee and attorney in fact, for themselves, their heirs, executors, administrators, successors and assigns, as party of the fifth part, entered into a certain agreement in writing which, among other things, contained the following provisions:

“Article 1. The entire net receipts of said Oregon “Steamship Company (meaning by the term ‘net receipts,’ whenever it is used in this agreement, all receipts remaining after paying the operating expenses, “Taxes, and harbor dues, and keeping the property of “said Steamship Company in reasonably good repair, “all other outlay, in every case, being prohibited, except “by agreement of all the parties to these presents) shall “be first applied to the payment of the interest at the “rate of ten (10) per cent per annum, on the principal “of Eight Hundred Thousand (\$800,000) Dollars “loaned by said party of the fourth part to the party of “the first part , as well as to the extinction of the said “principal. Whenever the principal and interest of “said debt of said Oregon Steamship Company shall be “paid in full, said net receipts and the securities held by “said party of the fourth part as collaterals shall be applied to the payment of the interest at the rate of ten “(10) per cent per annum and of the principal of One “Million dollars in gold, loaned by said party of the “fifth part to said Oregon Central Railroad Company, “in so far only, however, as the net receipts of the said “Oregon Central Railroad Company shall not be suf-

“ficient for the payment of said principal and interest,
“or any part of it, and in so far only as the pledge by
“said Oregon Central Railroad Company, namely—
“Four Millions Three Hundred and Ninety-five Thou-
“sand (\$4,395,000) Dollars, First Mortgage Bonds,
“shall not yield sufficient, if sold, to repay said loan of
“One Million Dollars and interest, but in the last named
“event said receipts of said Steamship Company shall be
“used for the repayment of said principal and interest
“only to the aggregate amount of Four Hundred Thou-
“sand (\$400,00) Dollars.

“Article 2. As soon as the conditions set forth in
“article first shall be complied with, the entire net re-
“ceipts of the Oregon Steamship Company shall be paid
“to the said parties of the third part or their agent and
“attorney at the end of each calendar month, and the
“parties of the third part shall apply them to the cur-
“rent interest of the First Mortgage Bonds of the Ore-
“gon and California Railroad Company to the amount
“of seven per cent per annum, and whenever in any one
“year the net receipts of the Oregon and California
“Railroad Company added to the receipts which may be
“contributed by the Oregon Steamship Company shall
“exceed the sum of seven per cent on the Bonds issued
“and unredeemed of the Oregon and California Rail-
“road Company, then one-half of such excess shall be
“applied to the redemption of script and one-half be
“applied to the stockholders of the Oregon Steamship
“Company.

“Article 3. The securities of the Oregon Steamship

“Company now in the hands of the party of the fourth
“part, to-wit: Two Million Dollars of the First Mort-
“gage Bonds, and Twenty-nine Thousand Nine Hun-
“dred and Ninety-eight (29,998) shares of the capital
“stock of said Oregon Steamship Company, shall be
“secondly additional security for the aforementioned
“claim of said parties of the third part within the afore-
“described limits, and thirdly, shall be additional se-
“curity to the said parties of the third part for its claim
“mentioned in article 2, without prejudice, however, to
“the prior rights of the parties of the fourth part and
“fifth part, and said securities shall be held as a pledge
“by the said party of the fourth part for its own bene-
“fit and as security for the payment of its claim as well
“as of the claim of the parties of the third and fifth
“parts—upon the payment in full of said party of the
“fourth part, possession of said securities shall be given
“to said party of the fifth part, which shall hold the said
“securities as a pledge for its own benefit as well as for
“the benefit of said parties the third part, without prej-
“udice, however, to its own claims, and upon the pay-
“ment of its own claims, possession of said securities
“shall be given to the parties of the third part; nothing
“herein stipulated shall prevent, however, the said
“parties of the fourth part from making good their
“claims against said party of the first part for prin-
“cipal and interest by sale, at any time they may find
“it to their interest to make such sale, of the securities
“of said party of the first part held by them as collat-
“erals,—” All of which by reference to said agreement

of July 25th A. D. 1874, will more fully appear.

And, Whereas, on the 6th day of April, A. D. 1876, an agreement was made and entered into by and between the said Milton S. Latham, as agent of the said creditors of the said Oregon Steamship Company, and as agent of the said creditors of the said Oregon Central Railroad Company, as party of the first part, and Henry Villard as agent of and on behalf of the holders of the First Mortgage Bonds of the Oregon and California Railroad Company, represented by the Frankfort Committee, party of the second part, modifying and changing said agreement of July 25th, A. D. 1874;

And, Whereas, said Frankfort Committee and the Bondholders of said Oregon and California Railroad Company represented thereby, are the same Committee and Bondholders who executed the aforesaid agreement of July 25th, 1874, as party of the third part, with such additional and such changes of said Committee as were authorized by said agreement and the principal to which the same referred and of which the same was part;

And Whereas, said agreement of April 6th, 1876, contains, among other things, the following provisions which may or do affect said agreement of July 25th, 1874, to wit:

“First. That said party of the first part, for and
“on behalf of the said creditors of the Oregon Steam-
“ship Company, covenants and agrees that the shares
“of the Capital Stock of said Company now stand-
“ing in the name of Ben Holladay shall be trans-

“ferred to the said party of the first part and the
“legal title thereof placed in him in trust and as se-
“curity for the debt due the creditors of said Steamship
“Company, but that the sole and exclusive right to vote
“upon the stock shall be vested in the said party of the
“second part, or some proxies or proxy by him selected
“for that purpose, and that a collateral agreement creat-
“ing and authorizing said right to vote thereon shall also
“be made by by the said party of the first part, as a
“separate instrument, and deposited in the office of the
“said company, and that the lawful voting power, vested
“in said shares, shall be exercised by the said party of
“the second part, or his said proxies or proxy, Provided,
“That the said party of the second part, or his said
“proxies or proxy, shall always consent to and vote for
“any nomination of two members of the Board of Di-
“rectors of said Company which the said party of the
“first part shall make, the right to make such nomina-
“tions and have them thus voted for being hereby ex-
“pressly conceded by said party of the second part.

“Second. The said party of the first part, for and
“on behalf of the creditors of the said Oregon Steam-
“ship Company, further covenants and agrees to re-
“serve out of the net earnings and proceeds of the said
“Steamship Company, now pledged to him in trust for
“said creditors, the sum of Fifteen Thousand (15,000)
“Dollars annually for a period of three (3) years, in in-
“stallments of Seven thousand five hundred (7,500)
“Dollars each payable every six months, from the date
“of these presents, said payment to be applied to the in-

“terest on Three Hundred Thousand Dollars seven per
“cent Oregon Central Railroad second Mortgage Bonds,
“to be issued to the said Ben Holladay in pursuance
“of an agreement between him and the party of the sec-
“ond part.

“Third. The parties of the first part, and second
“parts, in their representative capacities aforesaid, here-
“by mutually covenant and agree that in order to pro-
“vide the said Oregon Steamship Company with the
“necessary means of transportation, a suitable new
“steamship shall be purchased without delay, at a cost
“of not exceeding Two Hundred and Fifty Thousand
“(\$250,000) Dollars, in lawful currency of the United
“States, for said Steamship Company in the following
“manner (it being assumed that such purchase can be
“made on the payment of One hundred thousand dollars
“cash and the balance in equal payments in six, nine,
“twelve and Eighteen months), to wit: To meet the
“first cash payment aforesaid the party of the first part,
“as such representative as aforesaid, shall contribute the
“proceeds of the sale of the River Boats belonging to
“said Oregon Steamship Company, such sale to be ef-
“fected at the earliest possible moment, and the party of
“the second part, as such representative as aforesaid
“shall contribute whatever amount of money shall be
“required over and above the proceeds of said sale of
“the River Boats to make up the sum of One Hundred
“Thousand Dollars and such further sum as may be re-
“quired to equip, alter or repair the said Steamship so
“as to get her for the purpose of said line, Whatever

“amount shall thus require to be and be contributed, by
“said party of the second part, towards the purchase
“and equipment of said new Steamer, shall bear interest
“est at the rate of six per cent per annum, said interest
“to be paid out of the Net earnings and proceeds of
“the said Steamship Company after the prior payment,
“1st of the Fifteen Thousand dollars annually as before
“mentioned and 2ndly of the full amount of the
“cost of the said new Steamship, whereupon, after payment
“of the said Fifteen thousand Dollars annually
“and the full amount of the Cost of said new Steamship
“and the said interest shall have been made in the order
“aforesaid, there shall next from the said Net earnings
“and proceeds, be paid to the Creditors of the said
“Oregon Steamship Company any possible accrued back
“interest and upon the completion of all the payments
“aforesaid, the principal sum so advanced by the party
“of the second part towards the purchase and equipment
“of the said new steamer shall be repaid to him in
“installments of not less than Six thousand dollars per
“annum, but such installments shall not exceed the said
“sum of six thousand dollars per annum unless and until
“the current interest due to the creditors of the Oregon
“Steamship Company shall have been fully paid.
“Until the repayment of said principal in the manner
“so specified it shall stand as a first lien upon the said
“new Steamship with legal priority over the lien held
“by said party of the first part, as such representative,
“on the property of said Steamship Company.

“FOURTH. The said parties of the first and sec-

“ond part, in their said representative capacities also
“mutually covenant and agree that if upon further con-
“sideration it should be found necessary or desirable to
“purchase a second new Steamship, for the said Oregon
“Steamship Company, a joint agreement for such pur-
“chase, similar as far as possible to the one set forth in
“the foregoing articles, shall be made between the parties
“hereto.

“SEVENTH. The said party of the first part in
“such representative capacity, further covenants and
“agrees that upon the payment of the cost of said new
“Steamship or Steamships and upon the extinction of
“the debt of the said Oregon Steamship Company to
“said party of the first part, in such representative ca-
“pacity the Net earnings and proceed of such Company
“shall be equally divided, after allowing for the sub-
“sidiary payment of Fifteen Thousand Dollars for the
“time before mentioned, between the creditors of the
“Oregon Central Railroad Company and the Oregon
“and California Railroad Company in a manner to be
“agreed upon hereafter. But the portion of such net
“earnings or proceeds allowed and coming to said Ore-
“gon and California Railroad Company shall be ap-
“plied to the completion of the said Oregon Central
“Railroad.

“Eighth. The said party of the first part, in said
“representative capacity, further covenants and agrees
“that upon the extinction of the debts of the said Steam-
“ship Company and of the said Oregon Central Rail-
“road Company, the Oregon and California Railroad

“Company shall enter upon the full enjoyment of the
“entire net receipts of the two companies first above
“mentioned.

“NOW THEREFORE, in consideration of the
premises and the mutual benefits to be derived by each
under said agreement of April 6th, A. D. 1876, The
said parties hereto covenant and agree with each other
to all the provisions and conditions of the aforesaid
agreement of April 6th, A. D. 1876, whether hereinbe-
fore expressed or otherwise, and to all the modifica-
tions and changes thereby made in said agreement of
July 25, A. D. 1874, and hereby RATIFY CON-
FIRM AND ADOPT said agreement of April 6th.
A. D. 1876, so far as the same affects the rights of the
parties hereto as fully and completely as if all the parties
hereto had been made parties to said agreement and had
executed the same.

IN WITNESS WHEREOF, the said parties of
the first, second and third parts have, by resolutions of
their respective Boards of Directors caused their re-
spective Corporate Seals to be hereunto affixed and
these presents to be signed by their respective Presidents
and attested by their respective Secretaries and said
parties of the fourth fifth and sixth parts by their said
attorney in fact have hereunto set their hands and Seals
this day of A. D. (1876) One Thousand eight hundred
and seventy six.

RESOLVED, that the President and Secretary of
this Company be and they are hereby authorized and

directed to execute the said agreement in the name of and for and as the act of this Company under their official signatures and the Corporate Seal of this Company.

during the reading of the foregoing preamble and resolution, the Mr. Villard made such explanations as were necessary to a full understanding of the subject by the Board, at the conclusion of such reading.

Director Villard moved the adoption of the same, seconded by Mr. Koehler, and passed, and declared unanimously adopted.

On motion of Mr. Villard seconded by Mr. Crawford, the Secretary was instructed to have One hundred copies of the By-Laws printed for the use of the Company.

No further business being before the Board, Mr. Villard moved that the Board do now adjourn, seconded by Mr. Crawford and passed. the President then announced the Board adjourned, in accordance with the By-Laws.

A. G. CUNNINGHAM T. R. CORNELIUS,
President.

Office of the
Oregon Central Railroad Co.,

May 10th 1876

In accordance with the By-Laws and pursuant to notice each Director, the Board met at 11 o'clock A. M.

this day,

Members present,

T. R. CORNELIUS
GEO. W. WEIDLER,
RICHARD KOEHLER
HENRY VILLARD

4 members absent, M. Crawford and W. L. Halsey, 2 members vacancies, (Ben Holladay resigned Apl. 20/76) 1 member.

The President, (T. R. Cornelius) called the Board to order, and announced that reading the minutes of last meeting was first in order.

The Minutes of last meeting were read, and there being no objections made, they stood approved.

The President announced the resignation of Director Halsey, which the Secretary read as follows.

San Francisco May 1st 1876

To the President and Directors,

Oregon Central R. R. Co.

Gentlemen: I hereby tender my resignation as a Director in your Company.

Truly yours,

(Signed) W. L. HALSEY

Mr. Weidler moved that Mr. Halsey's resignation be accepted, seconded by Mr. Koehler and passed. Resignation was accepted.

Mr. Villard then nominated Hans Thielsen for Director of this Company to fill the vacancy occasioned by

the resignation of Mr. Holladay, accepted on April 20th 1876, for the unexpired term. Seconded by Mr. Koehler and passed. Mr. Thielsen was declared unanimously elected such director.

Mr. Thielsen being present qualified by subscribing to the following oath:

“Oath”

State of Oregon)
) ss.
County of Multnomah)

I, H. Thielsen being first duly sworn say that I will honestly and faithfully discharge the duties of Director of the Oregon Central Railroad Company to which office I have been elected, during my continuance in office, So help me God.

Signed, H. THIELSEN

Subscribed and sworn to before me a Notary Public in and for the County of Multnomah, State of Oregon at Portland, May 10th 1876.

(Signed) I. R. MOORES,

(SEAL)

Notary Public.

Mr. Thielsen then took his seat in the Board.

Mr. Villard nominated Mr. S. F. Chadwick for Director of this Company, to fill the vacancy occasioned by the resignation of W. L. Halsey, accepted this day. to serve for the unexpired term. Seconded by Mr. Koehler and unanimously elected such Director.

Mr. Chadwick being present qualified by taking

and subscribing to the following

“Oath”

State of Oregon)
) ss.
County of Multnomah)

I, S. F. Chadwick being first duly sworn, say, that I will honestly and faithfully discharge the duties of Director of the Oregon Central Railroad Company, to which office I have been elected, during my term of office, so help me God.

Signed, S. F. CHADWICK

Subscribed and sworn to before me a Notary Public in and for the County of Multnomah State of Oregon at Portland May 10th 1876.

Signed, I. R. MOORES,

(Seal)

Notary Public

Mr. Chadwick then took his seat, as such Director, in the Board.

The Secretary here presented Trial Balance statement for month of April showing the accounts in books of Company and Statement of Operating receipts and expenses for same month for the examination of the Board.

The Company's attorney—(J. N. Dolph Esq) stated to the Board that the By-Laws of this Company fixed the second Wednesday of each month at the hour of eleven o'clock A. M. for the monthly meeting of the Directors and that the same day and hour was so

fixed by the By-Laws of the Oregon and California Railroad Company, and as the officers and Directors of each Company were, in some instances the same, Therefore a change in the time of the monthly meeting of this Company was desirable.

Mr. Koehler then offered the following amendment to the By Laws. That Section Third of the Code of By-Laws of this Company be amended by striking out the words "11 o'clock A. M." and inserting the words "1 o'clock P. M." in lieu thereof.

Seconded by Mr. Thielsen and laid over to the next monthly meeting.

The President here stated for the information of the Board that the Commissioners appointed by the Government, had been over the Road, inspected and received the additional twenty seven and one half miles of Road not heretofore inspected, and that the certificates and maps referring to such inspection had been duly forwarded to the Department of the Interior.

No further business being before the Board, Mr. Villard moved that the Board do now adjourn, seconded by Mr. Chadwick and passed. The President announced the session adjourned.

A. G. CUNNINGHAM, T. R. CORNELIUS,

Secretary.

President.

ANNUAL
STOCKHOLDERS MEETING

Office of the
Oregon Central Railroad Co.
Portland, Oregon
Thursday May 25th 1876

Pursuant to notice in accordance with the By-Laws, and in accordance with the By-Laws, the Stockholders met at 11 o'clock A. M. this day.

T. R. Cornelius, President of the Company, stated to the Stockholders present, that this being the day fixed by the By-Laws for electing Seven Directors to serve for the ensuing Twelve months, and the Secretary having furnished him with the Certificate of Stockholders as shown by the Stock Ledger and Stock Certificate Books, that if there were a majority of the Stock represented, and no objection, the election would be proceeded with.

The Secretary then read the certified list of Stockholders, and the following Stockholders responded present,

T. R. Cornelius.....	5	shares
M. Crawford.....	1	share
Ben Holladay by R. Koehler proxy	20,066	shares
Richard Koehler.....	1	share
M. S. Latham, Trustee by H. Villard proxy	26,000	shares

Henry Villard.....	1	share
Geo. W. Weidler.....	492 $\frac{5}{8}$	shares
Robert Walker.....	8	shares

Total,	46,574 $\frac{5}{8}$	shares
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being over a majority of all the Capital Stock of the Company, the President directed that the election proceed, and read 5th Article of the By-Laws for the information of the Stockholders present.

The President then appointed Richard Koehler and Geo. W. Weidler Tellers to count the votes cast.

The following stockholders each having received 46,574 $\frac{5}{8}$ votes, which were all the votes cast, were declared unanimously elected.

T. R. Cornelius
Henry Villard
Richard Koehler
Geo. W. Weidler
Hans Thielsen
S. F. Chadwick
Medorum Crawford

The President then executed the following certificate,

State of Oregon)	
	)	ss
County of Multnomah)	

I, T. R. Cornelius, President of the Oregon and Central Railroad Company of Portland, Oregon, a corporation duly incorporated under the laws of the State

of Oregon, hereby certify that at the annual Stockholders meeting of said Company held at the office of said Company at the City of Portland in the County of Multnomah in the State of Oregon on Thursday the twenty fifth day of May A. D. 1876,

Henry Villard
Richard Koehler
H. Thielsen
S. F. Chadwick
T. R. Cornelius
Geo. W. Weidler and
Medorum Crawford

were duly elected Directors of said Company, each receiving the votes of a majority of all the Stock represented at said meeting and of a majority of all the Capital Stock of said Company.

May 25th 1876. (Signed) T. R. CORNELIUS,
President.

On motion of Mr. Koehler seconded by Mr. Weidler, the meeting adjourned.

A. G. CUNNINGHAM,
Secy.

Office of the Oregon Central R. R. Co.

Portland, Ore Tuesday May 30th 1876

Pursuant to call by the President and notice to each Director in accordance with the By-Laws the Board met at 11½ o'clock A. M. this day,

Members present,

Henry Villard

H. Thielsen

R. Koehler

S. F. Chadwick

T. R. Cornelius

M. Crawford

Geo. W. Weidler

7 members responded to roll call. The President called the Board to order, when the newly elected board of Directors appeared and qualified by taking and subscribing the following oath.

State of Oregon)	
	)	ss
County of Multnomah)	

We T. R. Cornelius, Henry Villard, R. Koehler, Geo. W. Weidler, Hans Thielsen, M. Crawford and S. F. Chadwick, being each duly sworn say and each for himself says that he will faithfully and honestly discharge the duties of Director of the Oregon Central Railroad Company, to which office we have been elected during our term of office, so help us God.

(Signed) T. R. CORNELIUS
 R. KOEHLER
 S. F. CHADWICK
 GEO. W. WEIDLER
 M. CRAWFORD
 H. THIELSEN
 H. VILLARD

Subscribed and sworn to before me a Notary Public this

30th day of May 1876.

(Signed) I. R. MOORES,

(Seal)

Notary Public

The term of office of the old board being terminated by the qualifying of the new board, the Secretary called the newly elected members to order, and announced the election of a President of the board as the first steps to be taken in organizing, and announced nominations for President as being in order.

Mr. Villard nominated T. R. Cornelius Esq for the office of President, no other nomination being made, Mr. Weidler seconded the nomination, and the election was proceeded with, Mr. Cornelius secured all the votes cast and was declared duly elected President, took the Chair and announced the election of Vice President as being next in order.

Mr. Villard nominated Mr. R. Koehler for the office of Vice President. There being no opposition, the election was proceeded with, and Mr. Koehler receiving all the votes cast was declared duly elected.

Mr. Weidler then nominated Mr. A. G. Cunningham for Secretary and Treasurer of the Company, no opposition being presented Mr. Cunningham received all the votes cast and was declared duly elected.

The President announced the board as now duly organized for the consideration of business.

The Company's attorney (J. N. Dolph, Esq.) then read for information and action of the board the following preamble and resolutions,

WHEREAS, This Company heretofore and at the date thereof executed and delivered to Ben Holladay President the two certain promissory notes of this Company for the sum of \$500,000 each, copies of which notes are hereinafter and in a copy of an agreement hereinafter contained and set forth and

WHEREAS said Ben Holladay as such President endorsed said notes in blank and delivered them to Milton S. Latham as agent for certain other parties, and said Latham is now the holder thereof, and

WHEREAS, said Milton S. Latham also holds as a pledge and collateral security for the payments of said promissory notes certain bonds of this Company, and certain Stock and bonds of the Oregon Steamship Company and

WHEREAS although said promissory notes are long since due this Company is unable to meet and pay the same and

WHEREAS, the Statute of Limitations of the State of California has run or is about to run and bar an action upon said Notes in said State and whereas said Latham as Trustee aforesaid is willing to extend the time of payment of said Notes upon condition that this Company will waive the bar of said Statute of Limitation and renew, its liability and promises to pay said promissory notes so that an action or suit may be maintained upon said notes in the State of California and so that the Statute of Limitations shall commence to run only from the expiration of such extension of time of

payment.

RESOLVED That the President and Secretary of this Company be and they are hereby authorized and directed to execute and deliver in the name of and for and on behalf of this Company and under their official signatures and the Corporate Seal of this Company an agreement with said Milton S. Latham Trustee, extending the time of payment of said notes waiving the bar of the Statute of Limitations, and renewing the liability and promise of this Company to pay said promissory notes of which agreement the following is a copy to wit:

COPY OF AGREEMENT

ARTICLES OF AGREEMENT, made this
day of in the year One
Thousand eight hundred and seventy six, between Milton S. Latham, as trustee and on behalf of the owners of the promissory notes hereinafter mentioned, the party of the first part, and the Oregon Central Railroad Company, a corporation duly incorporated under the laws of the State of Oregon, the party of the second part,

WITNESSETH: Whereas on the 29th day of February 1872 the said party of the second part made and delivered its promissory note to Mr. Ben Holladay, of which the following is a copy,

“\$500,000 Portland, Oregon 29th February 1872

“One year after date without grace, The Oregon
“Central Railroad Company promises to pay to the order of Mr. Ben Holladay, President in San Francisco

“the sum of Five Hundred thousand dollars, in Gold
 “Coin, of the United States for value received with in-
 “terest from date until paid at the rate of Ten per cent
 “per annum payable Quarterly in like Gold Coin,

“This Note is executed in pursuance of a resolution
 “of the Board of Trustees of said Railroad passed 9th
 “February 1872, witness our hands under the seal of the
 “said Corporation on this the 29th day of February
 “A. D. 1872.

“(Seal of the)

“(Corporation)

“BEN HOLLADAY

“President of the Oregon Central R. R. Co.

“C. S. DYER

“Secretary of the Oregon Central R. R. Co.

AND WHEREAS, on the 29th day of August
 1872 the said party of the second part made and de-
 livered its promissory note to Mr. Ben Holladay of
 which the following is a copy,

“\$500,000 Portland, Oregon 29 August 1872

“One year after date without grace, The Oregon
 “Central Railroad Company promise to pay to the or-
 “der of Mr. Ben Holladay Ben Holladay President in
 “San Francisco the sum of Five hundred thousand Dol-
 “lars in Gold Coin of the United States for value re-
 “ceived with interest from date until paid at the rate
 “of Ten per cent per annum payable quarterly in like
 “Gold Coin,

“This note is executed in pursuance of a resolution

“of the Board of Directors of said Railroad passed 9
“February 1872,

“BEN HOLLADAY

“President Oregon Central R. R. Co.

(Seal of the Corporation)

C. S. DYER

“Secretary Oregon Central R. R. Co.

AND WHEREAS the said Ben Holladay duly indorsed the said Notes in blank as such President and delivered them so indorsed at the dates aforesaid for value to the said party of the first part, as agent for certain other parties, and said party of the first part is now the lawful holder thereof,

AND WHEREAS on the 19th day of March 1873 the said Ben Holladay executed and delivered to the said party of the first part an instrument of which the following is a copy:

“For and in consideration of One Dollar to me in
“hand paid and for other valuable considerations, I do
“hereby deposit with Milton S. Latham as Collateral security for the payment of certain promissory notes described below, viz:

“One note for \$500,000 Gold dated 29 Feby 1872, made
“by the Oregon Central Railroad Company to the order
“of and endorsed by Mr. Ben Holladay, President due
“28th February 1873 and bearing interest from date at
“the rate of Ten per cent per annum, One Note for
“\$500,000 Gold, dated 29 August 1872 made by the
“Oregon Central Railroad Company to the order of
“and indorsed by Mr Ben Holladay President due 29

“August 1873 and bearing interest from date at the
“rate of Ten per cent per annum, which said notes are
“now held by said Milton S. Latham for account of
“owners,

“The following personal property of which I am the
“sole owner the same being at my risk and expense,
“to wit:

“Twenty nine thousand nine hundred and ninety
“seven (29997) shares of the Capital Stock and Two
“Million Dollars (\$2,000,000) worth of Bonds of the
“Oregon Steamship Company,

“In case of the non payment of the aforesaid promis-
“sory notes or either of them or of the interest thereon
“when due, I hereby appoint and constitute Milton S.
“Latham his successors or assigns my attorney irrevoca-
“ble with power of substitution to sell at any time after
“said notes or either of them or interest is due and re-
“mains unpaid with or without notice to me, the whole
“or any part of said security either at public or private
“sale at his discretion, the proceeds to be applied to the
“payment of the aforesaid Promissory notes interest
“due and Commissions on Sales, any surplus after said
“payment to be held subject to my order,

“On payment of the aforesaid Promissory Notes
“and interest this agreement to be void and the se-
“curity mentioned to be returned to me.

“This hypothecation is made subject to all the legal
“rights of a certain hypothecation executed by the Ore-
“gon Steamship Company on the 1st day of August

“1872, to secure the payment of a note made by them
“for \$800,000, dated Portland August 1st 1872, and
“due on the 1st day of October 1873 bearing interest
“at the rate of ten per cent per annum,

“Witness my hands this nineteenth day of March,
“1873.

“San Francisco, Cal.

“BEN HOLLIDAY

“Witness, Wm. Norris.”

AND WHEREAS at the same time the said Ben Holladay delivered to the said party of the first part the securities therein mentioned in pledge as aforesaid and said party of the first part is now the lawful holder and pledger thereof, as trustee as aforesaid,

AND WHEREAS, it is the intention of the parties of the first and second parts that the time of payment of the said Notes shall be extended and the Statute of Limitations shall not commence to run against the same until the expiration of the said extended time, either as to an action to be begun in the State of Oregon or in the State of California;

NOW THEREFORE the said party of the first part as Trustee as aforesaid hereby covenants and agrees for and in consideration of the sum of One Dollar to him in hand paid and the promises and agreements of the party of the second part hereinafter mentioned that the time of payment and maturity of said notes hereinbefore recited is hereby extended for a period of six (6) months from this date, to wit:

until _____, until which time they will remain owing but not payable,

And the said party of the second part as well in consideration of the above extension of the time of payment of the foregoing notes and of the payment of One Dollar the receipt whereof is hereby acknowledged, as otherwise hereby promises and agrees for itself its successors and assigns that it will and the said party of the second part hereby does waive the bar, or the application, of the Statutes of Limitation to the said Notes at the time when the same would be applicable to said notes or either of them but for this agreement, and the said party of the second part hereby makes and acknowledges this as a new and continued contract by which the case of the said promissory notes and either of them is taken out of the operation of the Statute of Limitation, and hereby takes said Notes out of the operation of said Statute and it hereby renews (as of that date, to wit:

_____) its liability to pay and said party of the second part hereby promises to pay the said notes with interest thereon at the rate of ten per cent per annum as in said notes stated, and the said party of the second part further promises and agrees that, inasmuch as under this agreement, a cause of action on said notes will not arise until said _____ the statute of Limitation shall not commence to run against said Notes or either of them until that time and shall then commence to run, as to either of the actions aforementioned,

And the said party of the second part for the consideration hereinbefore mentioned, and other considera-

tions, hereby further promises and agrees for itself its successors and assigns that the securities heretofore hypothecated to said party of the first part as hereinbefore described or otherwise, shall continue in the possession of said party of the first part as Trustee as aforesaid under the terms and agreements of the said instrument hereinbefore recited, or any other instrument hypothecating the same, for and during the said extension herein given, and that the right of the party of the first part to hold the Title and Control thereof as in said instrument mentioned and conferred shall in no wise be affected or impaired by the agreements of extension and waiver above mentioned,

IN WITNESS WHEREOF the said party of the first part has set his hand and seal hereto and the said party of the second part has caused these presents to be signed by its President and Secretary and its Corporate Seal to be affixed hereto the day and year first above written. (SEAL)

And that a certified copy of this resolution be furnished said Latham,

After explanations from Mr. Villard and Company's attorney Mr. Thielsen moved the adoption of the resolutions as read, seconded by Mr. Crawford and passed, and declared unanimously adopted,

Company's attorney then read the following preamble and resolutions for the consideration of the board,

WHEREAS, Henry Villard Esq is one of the Directors of the Oregon Central Railroad Company; and

whereas in the judgment of this board of Directors some arrangement should be made with the Willamette Transportation and Locks Company, in reference to the ruinous competition in the Transportation of freight between this Company, and the said Willamette Transportation Company,

Now therefore be it resolved that the said Henry Villard be and he is hereby authorized to make for this Company a Contract with said Willamette Transportation and Locks Company touching the carrying of freight between corresponding points on the land and rivers now served by the two said Companies, and plenary power is hereby given our said agent to make such a contract with said other Corporation, we hereby fully empowering him to arrange the terms of such contract, the time of its duration, the disposition of the gross earnings from all freight, and generally all matters and things unto said contract appertaining.

Resolved further that whenever our said agent shall have completed his contract as aforesaid, and shall have signed the same as agent of this Company, the same shall at once become the valid and binding act of this Corporation,

RESOLVED That Henry Villard Esq, Director of this Company be and he is hereby authorized and empowered to enter into a contract between this Company and the Oregon and California Railroad Company for the division between this Company, and the said Oregon and California Railroad Company of the portion

of the gross earnings to be received by both this Company and the Oregon and California Railroad Company for the carrying of freight by river and rail under any such contract which shall be entered into between this Company said Oregon and California Railroad Company and the said Willamette Transportation and Locks Company,

RESOLVED That in the making of such Contract, the said Henry Villard Esq have full power to fix its duration and terms and that when said contract shall have been fully agreed upon and completed and our said agent shall have signed the same as agent of this Company, the same shall at once become valid and binding as the Contract of this Company.

On motion of Mr. Chadwick seconded by Mr. Crawford the preamble and resolutions were adopted as read,

The Company's attorney then read the following preamble and resolutions for consideration of the board,

WHEREAS, This Company has erected a depot building and constructed a side track at Reedville Station upon the line of its Road upon land owned by S. G. Reed Esq., and whereas said depot was erected and side track constructed upon the expectation by this Company and the assurance by the owner of said land that suitable depot grounds should be donated to this Company at said station for depot and Railroad purposes, and whereas said S. G. Reed is willing and has offered to convey to this Company the following de-

scribed lands, upon which said station is located, upon condition that said Station depot, and side track shall be maintained upon said lands to wit:

Commencing at a stake set in a point bearing west-erly at a distance of 13-25-100 chains from the intersec-tion of the center line of the Oregon Central Railroad with the east line of the Donation Land Claim notifica-tion 1385 C1. 45 in Sec. 10, 11, 14 and 15 of T. 1 S R 2 W, measured along said Railroad center line, and north-erly at a distance of Thirty feet from said center line, thence N. 8° E., three hundred and seventy six (376) feet, thence N. 82° W one thousand (1000) feet, thence S 8° W Three hundred seventy six (376) feet, thence S 82° E One thousand (1000) feet to place of beginning, said track above described containing 8-62/100 acres more or less.

RESOLVED That this Company accept said do-nation upon said condition, and that the President of this Company be authorized and directed to procure and accept from said Reed a good and sufficient deed for said lands to be used for Railroad purposes, and con-ditioned to revert to said Reed his heirs or assigns when-ever they shall cease to be so used,

RESOLVED That upon the execution of such deed the delivery of the same to this Company the said Station depot and side track of this Company be per-petually established upon said lands.

The board having heard the preamble and resolu-tions read and the explanations in reference thereto, Mr.

Villard moved their adoption, seconded by Mr. Crawford and passed, declared adopted.

No further business being before the board, on motion of Mr. Villard seconded Mr. Weidler, the session adjourned.

A. G. CUNNINGHAM, T. R. CORNELIUS,
Secy.

Office of the Oregon Central R R Co.

Portland, Oregon Wednesday

June 14th 1876

There not being a quorum present at the hour for meeting of the board on this day in accordance with the By-Laws, no meeting was had, the board standing adjourned.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland Oregon Wednesday July 12 1876

No meeting was had this day, no quorum present at the hour for meeting.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland Oregon August 9th 1876

Regular monthly meeting of the Board of Directors of the Oregon Central R R Co. held at the office of the Company this day at 11 o'clock A M.

Present, T. R. Cornelius President in the Chair.

The following named Directors appeared and answered to their names. T R Cornelius, R Koehler, S F Chadwick and Geo. W. Weidler.

The Secretary of the Company being absent on motion Joseph Simon was duly elected secretary pro tem.

On motion of Mr. Koehler the reading of the minutes of the previous meeting was dispensed with.

On motion of Mr. Weidler seconded by Mr. Chadwick, the following preamble and resolution was unanimously adopted.

Whereas this Company has been advised by the Second Assistant Post Master General under date of July 10, 1876 that an order had that day been made authorizing the Auditor of the Treasury for the Post Office Department to pay this Company quarterly for carrying the mail between Portland and St. Joseph Oregon from April 1, 1875 to June 30, 1878 and the regulations of the Department requiring that an agent shall be duly appointed by this Company with authority to receive payment for such mail service and execute receipts to the Department for such payments, Therefore

Resolved, that A. G. Cunningham the present Secretary and Treasurer of this Company be and he is hereby appointed Special Agent of this Company with full authority to collect from the Post Office Department all moneys due or to become due to this Company for Mail Service on Route No. 44002 Portland to St

Joseph and execute receipts to the Department for such payments.

On motion of Mr. Weidler seconded by Mr. Chadwick the following preamble and resolution was unanimously adopted.

Whereas it is deemed advisable by this Board that all the lands of this Company excepting those lands donated to the Company by Act of Congress of the United States approved May 4, 1870 and those lands needed and in use by this Company for Depot and Railroad purposes, should be exempted and released from the operation of the Mortgage executed by the Company to Milton S. Latham and Faxon D. Atherton Trustees on July 15, 1871 and the Mortgage to W. D. Shipman and S. L. M. Barlow, Trustees, executed by this Company March 1, 1876, in order to facilitate the sale and disposition thereof by this Company, therefore

Resolved, That the Secretary of this Company be and he is hereby directed to request said Milton S. Latham and Faxon D. Atherton, Trustees and said W. D. Shipman and S. L. M. Barlow, Trustees to release to this Company and from the operation of the Mortgages held by them respectively, all the lands of this Company covered by said Mortgages excepting only those lands needed by the Company for Railroad and Depot purposes and those lands granted to the Company by the aforesaid Act of Congress.

There being no further business on motion the Board adjourned.

T. R. CORNELIUS,
Joseph Simon, Secretary pro tem. President.

Office of the Oregon Central R R Co.

Portland Or Augt. 30th 1876

Pursuant to notice in accordance with the By-Laws, the Directors met at 11 o'clock A M.

Present, T. R. Cornelius, Geo. W. Weidler, M. Crawford, R. Koehler and S. F. Chadwick, 5 absent, Hans Thielsen and Henry Villard 2.

The President took the Chair and called the meeting to order.

The Minutes of the previous meeting was then read and there being no objection, they stood approved.

The following preamble and resolution was then offered by Mr. Koehler, seconded by Mr. Chadwick, and declared unanimously adopted.

WHEREAS, at a meeting of the Board of Directors of this Company duly called and legally held April 20th 1876, the issuing of Bonds of this Company to the number of Three hundred of the denomination of One thousand dollars each, was authorized, for the purposes in the preamble and resolutions passed at said meeting specified and in the form in said resolutions set forth and specified.

AND WHEREAS, To secure the payment of said Three hundred bonds and the interest thereon, the President and Secretary of this Company were authorized to execute and deliver in the name of this Company, and in its behalf and as and for its act and under its Corporate Seal, a mortgage or deed of Trust, on the

Railroad of this Company, constructed or to be constructed from Portland to Astoria and from a suitable point of junction at or near Forest Grove to the Yamhill River at or near McMinnville in Oregon, and all the property and franchises connected with or appertaining to the said Railroad, to W. D. Shipman and S. L. M. Barlow of the City of New York as mortgagees and Trustees for the holders of said bonds, such mortgage to be in words and figures as set forth in said Resolutions, Reference being had to said Resolutions for a more perfect description thereof.

And Whereas, the form of said bond and mortgage or deed of Trust were not satisfactory to said Trustees, and said bonds as prepared for execution have been changed by inserting in the body thereof the words "This bond shall not become obligatory until it shall have been authenticated by a Certificate endorsed thereon by the Trustees aforesaid," and by altering the certificate of said Trustees to be endorsed thereon so as to read as follows, to wit: "This is to certify that the within Bond is one of Three hundred Bonds, which are mentioned in the mortgage or deed of trust bearing even date herewith, made and executed by the Oregon Central Railroad Company, upon its real and personal property, rolling stock, equipment, Road, Depots, Stations, Side tracks, Wood yards, franchises and effects acquired and to be acquired, and also upon all the lands granted to said Oregon Central Railroad Company, by the Act of Congress of the United States of America, aproved May 4th 1870, and entitled "An act

“granting lands to aid in the Construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon,” to us as “Trustees, subject as in said mortgage is stated, to a prior mortgage of all said property, executed to Milton S. Latham, and Faxon D. Atherton as Trustees, dated July 15th 1871, as security for the payment of all said bonds and which mortgage or deed of trust has been recorded,”

AND WHEREAS, certain verbal and inconsiderable changes in the form of said mortgage as in and by said Resolutions of Apr. 20th 1876, the same was authorized to be executed are desired by said Trustees and said Ben Holladay in said Resolutions mentioned.

AND WHEREAS, it is deemed advisable by this Company to consent to and authorize said changes,

RESOLVED: That this Company does hereby consent and agree to the said changes in said bond and certificate and approve the said bonds as the same have been prepared, engraved and printed, and that the President and Secretary of this Company be, and they are hereby authorized and directed to execute and deliver said Three hundred bonds, in said Resolutions authorized and directed to be issued in the name of and for and as the Act of this Company and under their official signatures and the Corporate Seal of this Company, and for the purposes in said resolutions of April 20th 1876 mentioned, in all respects as authorized and directed in said resolutions with the changes aforesaid, and that

all the Acts of said President and Secretary of this Company in that behalf heretofore done or caused to be done be, and the same are hereby expressly approved, ratified and in all respects confirmed.

RESOLVED: That the mortgage or Deed of Trust now here presented to this board and which reads as follows to wit:

THIS INDENTURE, made this first day of March, in the year of our Lord One thousand eight hundred and seventy six, between the Oregon Central Railroad Company, a body Corporate, created by and under the acts of the Legislature of the State of Oregon in that behalf made and provided, party of the first part, and William D. Shipman and Samuel L. M. Barlow, of the City and County of New York, in the State of New York, parties of the second part, **WITNESSETH:** Whereas, the said party of the first part is expressly authorized and empowered in and by the Acts of the Legislature of the State of Oregon, and the Acts of Congress of the United States, approved May 4th 1870, and entitled "An Act granting lands to aid in the Construction of a Railroad and Telegraph line, from Portland to Astoria and McMinnville, in the State of Oregon" to issue bonds and to secure payment of the same by a mortgage or deed of trust, as hereinafter set forth and provided.

AND WHEREAS, under and pursuant to the lawful authority conferred by said several acts of the Legislature of the State of Oregon, and of the Congress of

the United States aforesaid, the Board of Directors of the said party of the first part have unanimously resolved, in substance and legal effect, that said Oregon Central Railroad Company, make, execute, issue and deliver under its corporate seal, its corporate bonds, bearing date even herewith, severally payable to the holders thereof, at the Banking house of Messieurs Rutten and Bonn, in the City of New York State of New York, on the first day of March, One Thousand nine hundred and six, with interest from and after the first day of March, one thousand eight hundred and seventy six at the rate of seven per centum per month, payable at the same bank, semi-annually, principal and interest payable in Gold Coin, as follows:—that is to say: That three hundred of said bonds be made or issued for the sum of One thousand dollars each amounting in the aggregate to three hundred thousand dollars and no more, and that for the purpose of a more specific identification thereof, said three hundred bonds be numbered in a consecutive series, from one to three hundred, both inclusive, and that upon the face of each bond, be printed or engraved, a certificate to be signed by the parties of the second part hereto, to the effect that such bond is one of the three hundred bonds intended to be secured by these presents:

AND WHEREAS, said Board of Directors have further unanimously resolved under and pursuant to lawful authority conferred upon said party of the first part, by the acts aforesaid, in substance and legal effect that the President and Secretary of said party of the

first part execute and acknowledge in its name and in its behalf and under its corporate seal, and deliver to said parties of the second part hereto, a Mortgage or deed of Trust granting, conveying, assigning and transferring to them **IN TRUST**, all its Corporate Real and personal property, road, depots, stations, side tracks, woodyards, franchises, and effects as security for the payment of said three hundred bonds and interest to grow due therein, and that such mortgage or deed of trust should contain all and singular, the covenants provisos and conditions hereinafter and that said Mortgage or deed of trust, and the three hundred bonds thereby secured, be severally dated the first day of March One thousand eight hundred and seventy six.

And Whereas: the Congress of the United States of America did, by an Act approved May 4th in the year of our Lord, One thousand eight hundred and seventy, and entitled, "An Act granting lands to aid in the construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville, in the State of Oregon," grant to the Oregon Central Railroad Company and to their successors and assigns, the right of way through the public lands of the width of one hundred feet on each side of said road, and the right to take from the adjacent public lands the material for constructing said road, also necessary lands for depots, stations, sidetracks and other needful uses in operating said road, not exceeding forty acres in any one place and also each alternate section of the public lands, not mineral, excepting coal and iron lands, designated by the odd

numbers nearest said road to the amount of ten such alternate sections per mile on each side thereof, not otherwise disposed of, or reserved, or held by valid pre-emption or homestead right, at the time of the passage of said act, and in case the granting of ten full sections per mile could not be found on each side of said road within said limits of twenty miles, other lands could be selected under the directions of the Secretary of the Interior, on either side of said road nearest to and not more than twenty five miles from the track of said road, to make up such deficiency.

AND WHEREAS, the said Oregon Central Railroad Company, party of the first part hereto, in and by the terms of said Act of Congress of the United States of America, approved May 4th in the year One thousand eight hundred and seventy, is required to set apart, by mortgage or deed of trust, to two or more Trustees, all the net proceeds of the sale of the said granted lands as a sinking fund to be kept invested in the bonds of the United States or other safe and more productive securities for the purchase from time to time, and the redemption at maturity of the First Mortgage Construction Bonds of the Company on the road, depots, stations, sidetracks and woodyards, not exceeding thirty thousand dollars a mile of the Railroad, payable in Gold Coin not longer than thirty years from date, with interest payable semi-annually in coin, not exceeding seven per centum per annum, no part of the principal or interest of said fund to be applied to any other use, until all said bonds shall have been purchased or redeemed

or cancelled, and each of the said First Mortgage Construction Bonds, to bear the certificate of the Trustees, setting forth the manner in which the same is secured and its payments provided for.

AND WHEREAS, the said Oregon Central Railroad Company, party of the first part, has heretofore issued its bonds amounting in the aggregate to four millions three hundred thousand dollars, and as security for the payment thereof has executed a mortgage or deed of trust of all its property conveyed or intended to be conveyed by this Indenture to Milton S. Latham and Faxon D. Atherton, as Trustees, which mortgage or deed of trust is dated the fifteenth day of July One thousand eight hundred and seventy one and is duly recorded in the Records of Mortgages of Multnomah, Washington and Yamhill Counties, in the State of Oregon, all of which bonds are now pledged to Milton S. Latham of San Francisco, in the State of California, IN TRUST for certain creditors of this company, as security for a loan of One Million dollars, Gold, and accrued interest—

NOW THEREFORE, this Indenture WITNESSETH that the said Oregon Central Railroad Company the party of the first part hereto, under pursuant to and by virtue of the express power and authority conferred upon and vested in it by said several acts of the Legislature of the State of Oregon, and of the Congress of the United States of America, aforesaid and under and pursuant to Resolutions duly passed and adopted by its Board of Directors and which are duly entered upon

the official Minutes of said Board, and for and in consideration of the foregoing premises and especially for the purpose and with the intent of better and more effectually securing the payment of said three hundred bonds with the interest due and to grow due thereon, and for and in consideration of one dollar, lawful money of the United States of America, by the said parties of the second part hereto, in hand fully and truly paid to the said party of the first part hereto, before the sealing and delivery of these presents the receipt whereof is hereby acknowledged, HATH, granted bargained sold assigned transferred and set over, enfeoffed, conveyed and confirmed, and by these presents Doth grant, bargain, sell, assign, transfer and set over, enfeoff, convey and confirm, to the said William D. Shipman and Samuel L. M. Barlow, the said parties of the second part, as Trustees, and in trust, and to the survivor of them, and to their or his successors or successor, all, and singular, the Railroad of the said party of the first part, heretofore constructed or here after to be constructed from Portland to Astoria, and from a suitable point of junction near Forest Grove to the Yamhill River near McMinnville in the State of Oregon, in all a distance of One hundred and forty six and one half miles. **TOGETHER WITH** all its lands tenements and hereditaments acquired and appropriated or which shall hereafter be acquired and appropriated for the purpose of a right of way for its Railroad and all the appurtenances thereunto, belonging, And also, all its lands acquired and appropriated or which shall hereafter be acquired

and appropriated under and pursuant to the provisions of the Act of Congress of the United States of America, approved May 4th One thousand eight hundred and seventy and entitled "An Act granting lands to aid in the Construction of a Railroad and Telegraph line from Portland to Astoria and McMinnville in the State of Oregon,"

AND ALSO, its depots, engine houses, carhouses, station-houses, warehouses, machine shops, work shops, superstructures, erections and fixtures. And also, all and singular, the franchises, rights and privileges now owned, possessed or acquired or which shall hereafter be owned, possessed or acquired by said party of the first part, And all lands, tenements, hereditaments and real estate acquired and appropriated wheresoever and whatsoever, or now owned by said party of the first part, or which shall hereafter be owned by it, AND ALSO, all and singular, the locomotives, tenders, passenger cars, freight cars, and all other cars, carriages, tools, machinery, and equipments for said Railroad now owned or which shall hereafter be owned or acquired by said party of the first part, AND ALSO: all goods and chattels now owned or which shall hereafter be owned by said party of the first part, and in any way relating or pertaining or belonging to or connected with said railroad, or running or operating the same, TOGETHER WITH all rents issues, income, profits, moneys, rights, benefits and advantages derived or to be derived, had or received therefrom by said party of the first part, in any way whatsoever.

TO HAVE AND TO HOLD all and singular the premises, rights, franchises, property, real and personal hereinbefore and hereby granted, assigned, mortgaged, pledged and conveyed or intended so to be and every part and parcel thereof, with all the appurtenances unto the same belonging or in any wise appertaining unto them, the said parties of the second part hereto, and to the survivor of them, and to their and to his successors and successor and to their and his assigns forever **IN TRUST**—for the person or persons, firm or firms, bodies politic or corporate, who have heretofore or who shall hereafter at any time become the purchasers or holders, or owners of any or either of said three hundred bonds, amounting in the aggregate to three hundred thousand dollars, *subject* to the terms, provisoes, and stipulations in said three hundred bonds contained, And Subject also to the provisions of the Act of Congress of the United States of America, affecting or relating to or binding upon the party of the first part. *And subject also* to the prior lien of said mortgage of the fifteenth day of July, One thousand eight hundred and seventy one, executed by the party of the first part to Milton S. Latham and Faxon D. Atherton, Trustees, in favor of all persons, firms, or corporations who have acquired or may hereafter acquire an interest in or become the owners of any of the said bonds secured thereby, And Also subject to the possession and management of said Railroad and property of said party of the first part, and its successors and assigns so long as no default shall be made in the payment of either the interest or

principal of said three hundred bonds or in or to either of them, or so long as the party of the first part shall well and truly observe, keep and perform all and singular the covenants, agreements, conditions and stipulations in said three hundred bonds and in this **INDENTURE** contained and set forth, and which are to be observed, kept and performed by and on the part of the said party of the first part. **AND** the said Oregon Central Railroad Company the party of the first part, hath covenanted and agreed and by these presents doth for itself, its successors and assigns covenant and agree for itself, its successors and assigns covenant and agree vivor of them and their and his successors or successor in manner and form following, that is to say.

First, That said Oregon Central Railroad Company, the party of the first part, and its successors shall and will pay or cause to be paid, all taxes, charges, levies and assessments imposed, assessed or levied, or which may hereafter be imposed be imposed, assessed or levied upon the premises franchises and property hereby mortgaged, conveyed and assigned, or intended so to be, and shall and will, at its own proper cost, expense and charges do or cause to be done, all acts and things necessary and proper to be done or performed in order to preserve and keep valid and intact the lien or incumbrance upon all and singular the aforesaid premises property and franchises hereby created or intended so to be, and that except the lien of said mortgage of the fifteenth day of July, One thousand eight hundred and seventy one there is no lien upon the property conveyed

or intended to be conveyed by this Indenture at the en-sealing after delivery thereof.

SECOND, That the said Oregon Central Railroad Company, the party of the first part and its successors shall and will at any time or times hereafter, and from time to time execute acknowledge and deliver under its corporate seal to the said parties of the second part and the survivor of them and their or his successors or successor, such other and further assurances deeds mortgages, obligations, transfers, indentures and instruments in writing and shall and will do and perform all such further or other acts or things as shall or may be proper or necessary or as their or his counsel learned in the law, shall deem necessary, proper or expedient for the better or more effectually securing the payment of said three hundred bonds, and the interest due or to grow due thereon, or for carrying into effect the true intent design, objects and purposes of these presents, or making, preserving, continuing and keeping valid and effectual the lien and incumbrance created or intended to be created by the execution delivery and recording of this Indenture upon all the property real and personal rolling stock equipments franchises and effects and especially the lands referred to in and by the said act of Congress approved May 4th One Thousand eight hundred and seventy, now owned possessed or acquired or which shall hereafter be owned possessed or acquired by said party of the first part.

THIRD, and for the purpose of fully and more effectually securing the payment of the said three hundred

bonds together with the interest due or to grow due thereon, the said Oregon Central Railroad Company the party of the first part part hereto, for itself and its successors, hath pledged and hereby doth irrevocably pledge for the purpose and objects hereinbefore specified to and with the said parties of the second part and the survivor of them their and his successors and successor all and singular the net proceeds of the sales of the lands granted to the said party of the first part, by the Act of Congress approved May 4th One thousand eight hundred seventy, hereinbefore mentioned, **SUBJECT HOWEVER** to the prior pledge of the same in and by said Mortgage hereinbefore referred to, of the fifteenth day of July One thousand eight hundred and seventy one and for the purpose therein specified, as a sinking fund to be kept invested by the parties of the second part in the bonds of the United States or other safe and more productive securities for the purchase from time to time and the redemption at maturity of the three hundred bonds of the party of the first part hereinbefore particularly described, and no part of the principal or interest of the said fund shall be applied to any other use until all the said bonds shall have been purchased or redeemed and cancelled. **AND IN THE EVENT**, that the principal of said three hundred bonds is not otherwise paid at the maturity thereof then the fund aforesaid after satisfaction of the lien if any, of said Mortgage and pledge of the fifteenth day of July One thousand eight hundred and seventy one which shall then have accrued from the proceeds of the sales of said

lands and interest thereon shall be by said Trustees, parties of the second part, or the survivor of them, their or his successors or sucesor, applied to the discharge and payment of any and all amounts, both principal and interest then remaining due and unpaid on all such bonds and if such funds shall then be insufficient to discharge the whole amount then due on all such bonds, the same shall then be applied rateably thereon, according to the interests respectively of all such bondholders.

AND it is further stipulated and agreed, between the parties hereto, that if there remain any deficit in the payment of the principal and interest due on said three hundred bonds, after the whole of the fund aforesaid shall be applied thereon; at the maturity thereof, then the Trustees parties of the second part hereto, their successors or successor shall have full power and authority to sell and convey any and all lands then remaining undisposed of which are included in the grant made by act of Congress aforesaid, and which are hereby conveyed and intended to be conveyed in whole or in part, as the said Trustees may deem best for the interests of said bondholders, and as may be prescribed or limited by any act of Congress in force at the time of such sale, and if there shall be no such prescription and limitation by law, then said lands shall only be sold at public auction in the City of Portland, in the State of Oregon to the highest bidder and no such sale shall be made unless notice of the time and place thereof shall first be given by publication for at least six weeks in a weekly newspaper of general circulation published in the City of

Portland, State aforesaid, and the proceeds of such sale or sales after satisfaction of the lien if any, of said mortgage and pledge of the fifteenth day of July One thousand eight hundred and seventy one, and after the payment of all costs and expenses connected with such sales and a reasonable compensation to said parties of the second part for their services in connection therewith shall be applied to the payment of any balance either of principal or interest then remaining unpaid on such bonds aforesaid or any of them.

AND it is hereby expressly covenanted agreed and understood, by and between the parties to these presents that notwithstanding the execution and delivery of these presents and of the covenants herein contained the said Oregon Central Railroad Company, the party of the first part hereto, shall have the right at any time after the execution of these presents to make sales of all and singular the lands granted to said Company by Act of Congress of the United States, approved May 4th One thousand eight hundred and seventy aforesaid in the manner and mode prescribed therefor by law and that the parties of the second part shall and will at any time after the delivery to them of this Indenture upon the request of the party of the first part, and upon the receipt by the parties of the second part, from the party of the first part of such portion of the price or consideration for said lands as shall remain after satisfaction of the lien of said mortgage and pledge of the fifteenth day of July, One thousand eight hundred and seventy one (The certificate of the President for the time being of

the said party of the first part to be sufficient evidence to said parties of the second part of the amount of such remaining portion of said price or consideration) make execute and deliver at the cost and expense however, of the said party of the first part such releases discharges and assurances in respect to said lands as the party of the first part or its counsel, learned in the law may require for the purpose of making good and sufficient title to said granted lands so sold, to any and all purchasers thereof clear and free from all lien or incumbrance, created by these presents and all net proceeds received from the sales of all or any of the lands granted or intended to be granted by said Act of Congress after satisfaction of said prior lien shall be received and held jointly by the parties of the second part, and the President of the party of the first part, and shall be held subject to their control, and shall be immediately and as soon as practicable after the same are received invested by said parties of the second part, by and with the consent of the President of the party of the first part, in the United States bonds or other more productive securities, which securities shall be under the control of the said parties of the second part and the said President of the party of the first part, and shall be used solely for the purposes herein specified, AND it is expressly understood and agreed that the lien created by this Indenture on said lands granted by said Act of Congress shall upon the sale of any portion of said lands as aforesaid and the application of the purchase price thereof as herein provided, cease so far as the

same relates to the portion of the land so sold, the parties of the second part shall not have the right to make sale of any of said lands without the consent of the party of the first part, except as herein specifically provided.

FOURTH, That the said Oregon Central Railroad Company the party of the first part hereto, shall and will, well and truly pay the said sum of money in said three hundred bonds mentioned, together with the semi-annual interest due or to become due thereon, at the rate of seven per centum, at the times, in the manner, and at the place specified therein.

AND, further—Said Oregon Central Railroad Company hereby covenants and agrees that in case it shall have for the period of six months made default in the payment of the semi annual interest due or to become due on either or any of the said three hundred bonds or in case it shall fail to appropriate and set apart in the hands of the said parties of the second part, all and singular the net proceeds of the sales of the said lands granted to the party of the first part, by the Act of Congress of the United States as aforesaid, as and for a sinking fund for and to be applied in payment or redemption of said three hundred bonds in the manner and subject to the conditions hereinbefore and in said Act of Congress specified, then and in either of said cases after the lapse of said six months the whole principal sum mentioned in each and all of said three hundred bonds shall forthwith be and become due and payable and the lien or incumbrance hereby created for the se-

curity and payment thereof may be at once enforced, anything in said bonds or in this Indenture to the contrary notwithstanding, and that it shall and maybe lawful and the said parties of the second part and the survivor of them and their and his successors or successor are hereby expressly authorized and empowered upon the request in writing of the holders of at least one hundred of said three hundred bonds to enter into and upon and to take actual possession of all and singular the Railroad premises, franchise, rights, property, real and personal and effects hereby granted, conveyed, assigned, mortgaged, pledged, transferred and set over or intended so to be as a security for the payment of said three hundred bonds and by themselves or their agents to operate the said railroad and to take collect and receive the tolls earnings income and profits thereof and every part thereof or to be derived therefrom and that they said parties of the second part and the survivor of them and their or his successors and successor shall and may proceed and are hereby expressly authorized and empowered thereupon but within such reasonable time as they may deem proper, not less than sixty days, and upon and after public notice by advertisement for at least six weeks in one or more newspapers published in the cities of New York, State of New York and San Francisco, State of California and Portland, State of Oregon, to proceed to sell at public auction in said City of Portland to the highest bidder, subject to any prior lien, if any there shall be, under said mortgage of the fifteenth day of July One thousand eight hundred and

seventy one as well all and singular the said Railroad rights and franchises as all other the property real and personal and premises hereby granted conveyed assigned mortgaged pledged transferred and set over or intended so to be and all benefit and equity of redemption whatsoever of the said Oregon Central Railroad Company the said party of the first part hereto of in and to the same and every part and parcel thereof together with the benefit of the franchises belonging thereto or connected therewith, AND as the attorney or attorneys of the said Oregon Central Railroad Company the said party of the first part hereto for that purpose by these presents, duly appointed and constituted the said parties of the second part and the survivor of them and their and his successors and successor shall have full power and authority to make execute and deliver to the purchaser or purchasers thereof a good and valid and sufficient deed or deeds of conveyance or conveyances assignment or transfer in fee simple or otherwise of said Railroad lands, tenements and real estate and of all and singular the said personal or other property franchises rights and premises hereby granted assigned transferred or conveyed as aforesaid, which sale so to be made as aforesaid and which deeds, conveyances, assignments and transfers so to be made and delivered as aforesaid shall operate to convey assign transfer and vest in said purchaser or purchasers, all the right title interest and estate whatsoever reversionary or otherwise of the said Oregon Central Railroad Company the party of the first part of in and to the premises so sold

conveyed assigned transferred and which said sale so to be made shall be a complete and perpetual bar both at law and in equity against the said Oregon Central Railroad Company the party of the first part its successors and assigns and all persons or parties claiming by from or under it or them in any wise or manner whatsoever, and that out of the moneys or proceeds arising either from said tolls earnings or receipts of said Railroad or premises or at or from said sale so to be made as aforesaid, after first deducting the expenses disbursements costs charges and counsel fees incurred in and about the conducting of said sale or running and operating said Railroad as well as a reasonable compensation to themselves for their services in the premises they the said parties of the second part and the survivor of them their and his successors or successor shall pay the amount then remaining unpaid and due on said three hundred bonds and thereby secured or so many as shall then be outstanding and unpaid together with all arrears of interest then due or owing upon the same rendering or paying over the surplus of all such moneys, if any there shall be to the said party of the first part hereto its successors or assigns, **PROVIDED** always and this Indenture is upon the express condition that if the existing bonds of the party of the first secured by said mortgage or deed of Trust of the fifteenth day of July One thousand eight hundred and seventy one shall hereafter be retired and cancelled and the said mortgage extinguished, said Oregon Central Railroad Company party of the first part may create a new mortgage upon its

road lands and property in this Indenture conveyed and intended to be conveyed to secure its bonds to be issued to an amount including said three hundred bonds of not exceeding twenty thousand dollars for each mile of its road, which bonds shall be issued only in proportion and as fast as such road is completed of which bonds last mentioned said three hundred bonds shall form a part and upon the execution delivery and lawful recording of such new mortgage securing said three hundred bonds as aforesaid and the completion of the road of said Company to Junction City in the county of Lane in the State of Oregon, **PROVIDED** always that said new mortgage shall contain clauses covenants and promises similar so far as the same are applicable to the clauses covenants and provisions herein contained, **AND PROVIDED FURTHER** that said new mortgage shall first be submitted to and approved as to its form and substance by said parties of the second part of their counsel and shall be a first lien; together with the additional bonds at the rate of twenty thousand dollars per mile of completed road hereinbefore mentioned; upon the property and premises therein and thereby conveyed, this mortgage shall be surrendered up extinguished and cancelled of record and the lien thereof shall thereupon cease, **AND** provided further and this Indenture is upon the express conditions that in case of an arrangement by which the said Oregon Central Railroad or the Oregon & California Railroad shall be sold or transferred to or combined with any other Railroad Company or corporation and upon any such sale or re-

organization or combination, new bonds of any kind shall be issued by such other Railroad Company or corporation and paid for the said Road so sold or transferred then and in any such case an equal number of such new bonds (or in case the interest reserved on said bonds be less than seven per centum per annum an amount the annual interest upon which shall be equal to the interest payable upon said three hundred bonds shall be offered to the owners and holders of said three hundred thousand dollars of bonds to be secured by this Indenture, and in case such new bonds shall be equal in value to the bonds of the Central Pacific Railroad Company or shall be guaranteed by the Central Pacific Railroad Company or other corporations of equal financial standing whose bonds are of equal or greater market value than the first mortgage bonds of said Central Pacific Railroad Company then the owners and holders of said bonds shall accept the said new bonds and shall by purchase of the said new bonds be deemed to have agreed with said Company to accept the same at any time within six years from the first day of March One thousand eight hundred and seventy six in lieu of said three hundred bonds secured by this Indenture, and the lien of this Indenture shall thereupon cease and the same shall be surrendered up and cancelled of record.

THIS INDENTURE further WITNESSETH and these presents are upon the express condition that upon payment in full of said three hundred bonds and the interest due thereon then these presents and the es-

tate hereby granted shall cease and be void and the Oregon Central Railroad Company the party of the first part shall be immediately and fully reinvested with the said premises hereby granted in law and in fact without any entry or other act whatsoever, and that until default shall be made by said party of the first part hereto either in payment of said three hundred bonds or in payment of the interest due or to grow due thereon as aforesaid or in appropriating and setting apart in the hands of the parties of the second part their successors or successor all and singular the net proceeds of the sales of said lands granted by the Act of Congress aforesaid as a sinking fund to be kept invested in bonds of the United States or other safe and more productive securities for the purposes hereinbefore mentioned and described or in keeping and observing any of the covenants and agreements hereinbefore contained the said Oregon Central Railroad Company the party of the first part and its successors and assigns shall remain in the quiet and peaceable possession and enjoyment of the said premises and property hereby granted or conveyed or intended so to be as aforesaid.

THIS Indenture further Witnesseth that either of the said parties of the second part may resign the trust hereby imposed upon him by delivering to the President for the time being, of said party of the first part or leaving at his office in the City of Portland as aforesaid or wherever said office may for the time being be located notice in writing by said Trustee signed and acknowledged in such manner as to entitle the same to

be recorded in the offices where these presents are recorded such notice however to be so delivered at least one month before such resignation is to take effect.

THIS Indenture further WITNESSETH and it is hereby expressly agreed that in case of the death resignation incapacity or inability of either of the parties of the second part act in the execution of any of trusts aforesaid, then it shall and may be lawful for the remaining acting surviving or competent Trustee and the President for the time being of the party of the first part, and they are hereby empowered and directed to select and appoint by an instrument in writing under their hands and seals; which shall be recorded in the same offices where this Indenture shall be recorded one or more competent persons to fill the vacancy so created in the manner aforesaid, and that in case of the death resignation incapacity or inability of both of said parties of the second part at the same time then and in that case it shall and may be lawful for the President alone, for the time being of the said party of the first part and he is hereby empowered in like manner to select and appoint competent persons to fill the vacancies thus created and in case of failure on the part of said President and said remaining Trustee or either of them to fill said vacancies in the office of Trustee under this instrument for the period of three months after such vacancies occur it shall be lawful for the holders of said three hundred bonds to the amount of ten per cent thereof or upwards to apply to any Court of competent jurisdiction in any county through or into which said

Railroad runs for the appointment of a Trustee or Trustees to fill such vacancy or vacancies, and such person or persons so appointed Trustee or Trustees shall have and possess and be invested with the same estates rights and powers as Trustee or Trustees as he or they would have had and possessed or been invested with, had he or they been originally made a party or parties of the second part to this Indenture and shall perform the same duties in all respects, and until such appointment shall be so made in the manner aforesaid and notwithstanding any vacancy or vacancies as aforesaid said remaining surviving acting or competent Trustee shall have full power and authority to execute each and all of the trusts hereby created, and their and his acts in the premises shall be as legal, valid and effectual in all respects and to all intents and purposes, as if the same acts had been done and performed by all the parties hereto of the second part and in case said appointment shall be made in the manner aforesaid, said party of the first part hereby covenants to make execute and deliver all such other or further instruments deeds Indentures or assurances as may be necessary to enable the person or persons so appointed to execute the Trusts hereby created and declared as fully and perfectly in all respects as he or they could have executed the same if originally made a party or parties of the second part to this Indenture And it is hereby distinctly declared that no party of the second part nor his successors shall be nor shall be held to be in any case contingency or event liable for any act neglect or default of any other of said par-

ties of the second part hereto or their successors but every party of the second part hereto shall be liable for his own several acts neglects and defaults alone.

AND ALSO that none of the said parties of the second part or their successors shall be liable for any proceeds of any sales of said lands franchises or property above mentioned and hereby conveyed or intended so to be except such as shall be actually by them or him in hand received. And also that the parties of the second part shall not be obliged to take possession of said Railroad or of any of the property connected therewith or manage control operate or conduct the same (except the proceeds of lands by said party of the first part sold as hereinabove provided for) until they the said parties of the second part shall have been reasonably indemnified against all and every expense loss cost damage or liability by them suffered made paid or incurred by reason thereof. AND ALSO that the parties of the second part by becoming parties to this instrument and accepting the Trust hereby created do not incur and shall not be held to have incurred any obligation or responsibility whatever by reason of or in respect of the various recitals hereinabove made. IN WITNESS WHEREOF, the said Oregon Central Railroad Company, the party of the first part hereto hath caused these presents to be subscribed by its President and attested by its Secretary and hath under the express authority of the Resolutions of its Board of Directors caused its corporate seal to be hereunto affixed and the parties of the second part strangers to the several re-

citals herein for the sole purpose of signifying their acceptance of the Trusts hereby and herein created have hereunto subscribed their names and affixed their respective seals the day and year first above written.

be and the same is hereby approved and adopted by this Board in lieu of the Mortgage or deed of Trust authorized by said resolutions of April 20th 1876 to be executed.

RESOLVED, That the President and Secretary of this Company be, and they are hereby authorized and directed to execute and deliver said mortgage or Deed of Trust in the name of this Company and as and for its Act and deed, under their official signatures and the Corporate seal of this Company.

The following Preamble and Resolution was then offered by Mr. Koehler seconded by Mr. Crawford and on being put to vote was unanimously passed and declared adopted.

WHEREAS, Alvan T. Smith and Jane M. Smith, his wife, of Washington County, Oregon, have proposed to convey to this Company the following described premises situate in said Washington County, bounded and described as follows, to wit: Commencing at an oak post on the south side of the Oregon Central Railroad Company's Railroad and thirty feet (30) from the center line of said Railroad, as now located and constructed, from which post the quarter section corner on the south boundary of section six (6) Township One (1) south range three (3) west Willamette Meridian Oregon bears south 33° 05' west distant Five

hundred ninety-nine (599) feet thence north $59^{\circ} 40'$ east Twelve hundred eighteen and eight tenths ($1218\text{-}8/10$) feet to an oak post thence north $30^{\circ} 20'$ west Two hundred ten (210) feet to an oak post then south $59^{\circ} 40'$ west Ten hundred eighty seven and two tenths feet ($1087\text{-}2/10$) feet to an oak post thence south $1^{\circ} 45'$ west ($247\text{-}9/10$) Two hundred forty seven and nine tenths feet to place of beginning. And also the right of way over and across his lands to wit: The Donation land claim of the said Alvan T. Smith and wife Notification No. 1613 claim No. 43 in Sec. 5, 6, 7, & 8 in T. 1 S. R. 3 W. for the consideration of One Dollar and the issuance and granting to said Alvan T. Smith and Jane M. Smith his wife an annual free pass over the Railroad of this Company during their natural lives,

And Whereas it is deemed advisable by this Board and beneficial to this Company to accept said proposition: Therefore,

Resolved that this Company do accept such conveyance and the proper officer of this Company is authorized and directed to issue to said Alvan T. Smith and

Smith his wife an annual pass over the Railroad of this Company for and during the term of their natural lives.

No further business being presented on motion of Mr. Crawford seconded by Mr. Chadwick, the Board adjourned.

A. G. CUNNINGHAM, T. R. CORNELIUS,

Secy.

President.

Office of the Oregon Central R R Co.

Portland Ore Wednesday Sept 13

1876

No business requiring action of the board at this monthly meeting, no meeting of the Directors was had.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Oct 11" 1876

No business requiring action of the board at this monthly meeting, no meeting of the Directors was had.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Nov 8" 1876

No business requiring action of the board at this date, no meeting was had this day.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Dec. 13" 1876

No business requiring action of the board at this date, no meeting had on this day as provided.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Jany. 10" 1877

Pursuant to notice to each Director in accordance

with the By-Laws the board met at 11/30 o'clock A M
this day. Members present,

T R Cornelius)
Geo W Weidler)
R Koehler)
Hans Thielsen	) 4

Absent	S F Chadwick)
	M. Crawford)
	Henry Villard	) 3.

Mr. Cornelius took the Chair and called the meeting
to order.

Minutes of previous meetings were read. No objec-
tions being offered, were declared to stand approved.

The Secretary submitted the Trial balance State-
ment from books of this Company for mo. of December,
showing a Net gain for the month of

No further business coming before the board on
motion of Mr. Thielsen, seconded by Mr. Koehler the
board adjourned, to meet in accordance with the By-
Laws.

A. G. CUNNINGHAM,	T. R. CORNELIUS,
Secy	President

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Feby. 14" 1877

No business requiring action of the board at this
date no meeting had this day.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central R R Co.

Portland, Ore Wednesday Mch 14th 1877

Pursuant to notice to each Director, in accordance with the By-Laws, the board met at 11 o'clock A M this day.

Members present	T. R Cornelius)
	R. Koehler)
	Geo W Wiedler)
	Hans Thielsen)
	and)
	S F Chadwick	) 5

Absent	Henry Villard)
	and)
	M. Crawford	) 2.

Mr. Cornelius the President took the chair and called the meeting to order.

The Secretary then read the minutes of meeting had on the 10th day of January, 1877, that being the last meeting of the board. No objections being made, the proceedings stood approved.

Mr. Koehler then offered the following Preamble and Resolutions and moved the adoption thereof,

WHEREAS, the gross earnings of this Company for the next five or six months will not be sufficient to pay current operating expenses, Therefore be it Resolved, That the Company negotiate a loan of Milton S. Latham of the London and San Francisco Bank, San Francisco, State of California, not to exceed the sum of Six Thousand dollars in Gold Coin to be received in sums as the same may be needed from time to time, which

sum or sums shall be made payable to said Milton S. Latham on demand with interest at the rate of one per cent per month in like Gold Coin.

Resolved, That to secure the payment of said sums the Net earnings of the road of this Company be and they are hereby pledged and set aside monthly for the liquidation of said loan or loans, until the same shall be fully paid and discharged and the Treasurer of this Company is hereby directed to apply all such Net earnings towards the payment of such loan or loans and interest thereon,

Resolved, That the President, or the Vice President, in the absence of the former, and the Secretary of this Company be and they are hereby authorized and directed to execute in the name of this Company and under its Corporate Seal, the promissory Note or Notes of the Company for the loan aforesaid and such other instruments as shall be necessary to secure the payment of said loan and interest and the appropriation of the Net earnings of the road as herein provided.

On concluding the reading thereof, Mr. Chadwick seconded the motion to adopt and on being put to vote was unanimously adopted.

No further business being presented to the board, on motion of Mr. Koehler, seconded by Mr. Thielsen the board adjourned.

A. G. CUNNINGHAM, T. R. CORNELIUS,

Secy

President

Office of the Oregon Central Railroad
Co, Wednesday April 11th 1877.

Portland, Oregon

No business requiring the action of the board, no meeting was had on this day.

A. G. CUNNINGHAM, Secy

Future Proceedings contained in "Journal of Minutes" No. 3 O. C. R. R. Co. April 11th 1877.

A. G. CUNNINGHAM,
Secy.

JOURNAL OF MINUTES

OF

O. C. R. R. CO.

OF PORTLAND

VOL. IV.

OFFICE OF THE OREGON CENTRAL
R. R. CO.,

Portland, Oregon, Wednesday, May 9, 1877.

Pursuant to notice in accordance with the by-laws,
the directors met this day at 11 o'clock A. M.

Present	R. Koehler	
	Ham Thielsen	
	G. W. Weidler	
	S. F. Chadwick	
	M. Crawford	
	T. R. Cornelius	6

Absent Henry Villard 1

T. R. Cornelius, President, in the chair, called the
board to order.

Minutes of last meeting read and no objection being made, were declared on standing adopted.

Statement from books of Company submitted by Secretary for inspection of the board.

Mr. J. N. Dolph, Company's attorney, then read the following preamble and resolution for information of the Board.

WHEREAS, on the 26th day of May, A. D. 1876, an agreement was made and entered into between this Company, the Oregon Central Railroad Company, as party of the third part, The Oregon Steam Ship Company, as party of the first part, The Oregon and California Railroad Company as party of the second part, the European creditors of the said Oregon Steam Ship Company, as party of the fourth part, acting by Milton S. Latham, their Trustee, and Attorney in fact, the European Creditors of the Oregon Central Rail Road Company, as party of the fifth part, acting by said Milton S. Latham, their Trustee and attorney in fact, and Heinrichs Hohenemser and others, as party of the sixth part, which agreement is spread at length upon the minutes of proceedings of this Company, reference being had thereto for a more particular description; and

WHEREAS, certain modifications and changes of said agreement are desired by all parties to the same; and

WHEREAS, it is deemed by this Board for the best interests of this Company that said agreement should be modified and changed as in the contract here-

inafter set forth and contained and that a new contract should be entered into by this Company with the parties to said former agreement as substitute in all respects for said agreement of May 26, 1876, of which new and substituted contract the following is a copy, towit:

“THIS AGREEMENT, made and entered into
“this 28th day of March, A. D. 1877, between the Ore-
“gon Steam Ship Company, a corporation duly incorpor-
“ated and organized under the laws of the state of Ore-
“gon, party of the first part, the Oregon and California
“Railroad Company, a like corporation duly incorpor-
“ated and organized under the laws of the said state,
“party of the second part; the Oregon Central Railroad
“Company, of Portland, Oregon, a like corporation,
“duly incorporated and organized under the laws
“of said state, party of the third part; The European
“creditors of the said Oregon Steam Ship Company by
“Frederick Rodewald, their attorney in fact, duly made
“and constituted as such for the purposes of this agree-
“ment (the said creditors of said Oregon Steam Ship
“Company being the creditors thereof heretofore in the
“several contracts herein referred to, represented by
“Milton S. Latham, Trustee and attorney in fact, and
“who did on the first day of August, 1872, advance to
“said Steam Ship Company the sum of Eight Hundred
“Thousand dollars, United States Gold Coin, now re-
“duced by payments thereon to Six Hundred and Thirty
“Thousand dollars gold coin and interest thereon from
“the first day of February, 1876,) party of the fourth
“part; The European creditors of the Oregon Central

“Rail Road Company, by the said Frederick Rodewald, their attorney in fact, duly made and constituted as such for the purposes of this agreement which last mentioned creditors of the said Oregon Central Railroad Company are the creditors thereof heretofore and in said contracts also represented by said Milton S. Latham as Trustee and attorney in fact, and which said creditors, or their assignors, did on the 29th day of February and August, A. D. 1872, advance in the aggregate to said Oregon Central Railroad Company the sum of One Million dollars United States coin, amounting now, with accrued interest, to One Million three Hundred and Sixty Thousand five Hundred and fifty-five dollars and fifty-five cents United States coin, party of the fifth part; and Heinrichs Hohenemser, of the City of Frankfort-on-the Main, Prussia, Director of the Deutsche Vereins Bank in the same city; Phillip B. Bonn, Banker of the City of Frankfort-on-the-Main; Paul Runganum, Doctor of law and Attorney at Law, of the City of Frankfort-on-the-Main; Herman Koehler, Merchant of the City of Frankfort-on-the-Main; Adolph Otto, Doctor of law and attorney at law, of the City of Heilbroun, Kingdom of Wurtemberg; Michael Benjamin, Banker, of the City of Munich, Kingdom of Bavaria; Doctor Gustav Krauss, of the City of Darmstadt, Grand Duchy of Hess, by Henry Villard, of the City of Heidelberg, Grand Duchy of Baden, their attorney in fact; and the said Henry Villard; owners or possessors of certain first mortgage bonds of the said Oregon and

“California Railroad Company, party of the sixth part;

“ WITNESSETH, That whereas on the 6th day of
“April, A. D. 1876, an agreement was made and entered into by and between said Milton S. Latham, as
“agent of the party of the fourth part and as agent of
“the said party of the fifth part, and Henry Villard as
“agent of and on behalf of the said party of the sixth
“part;

“ AND WHEREAS, on the 26th day of May, A. D.
“1876, an agreement was made and entered into between
“said Oregon Steamship Company, as party of the first
“part; said Oregon and California Railroad Company,
“as party of the second part; said Oregon Central Railroad Company, as party of the third part; said creditors of the Oregon Steam Ship Company, by said Milton
“S. Latham, as their Trustee and attorney in fact, as
“party of the fourth part; said creditors of the Oregon
“Central Railroad Company, by said Milton S. Latham,
“their Trustee and attorney in fact, as party of the fifth
“part; and the said Heinrich Hohenemser and others
“as party of the sixth part, in and by which agreement
“the parties thereto agreed to and confirmed all the provisions of said recited agreement of April 6, 1876;

“ AND WHEREAS, on the 6th day of December,
“A. D. 1876, a preliminary agreement was entered into
“by Frederick Rodewald, as agent and on behalf of the
“said parties of the fourth and fifth parts, and Herman
“Koehler, as Agent and on behalf of the holders of the
“majority of the first mortgage bonds of the Oregon and

“California Railroad Company, modifying and changing
“said agreements of April 6th and May 26, 1876, and
“providing for the execution of this agreement by the
“parties hereto as a substitute in all respects for said
“agreements of April 6th and May 26th, 1876, which
“several agreements are hereby referred to for more par-
“ticular description;

“ AND WHEREAS, the said several corporations,
“parties hereto, are so connected in interest and busi-
“ness that prosperity of each is largely dependent upon
“the prosperity of the others, and each is interested in
“continuing in operation each of the others;

“ AND WHEREAS, the said parties of the fourth,
“fifth and sixth parts, being creditors of said corpora-
“tions respectively as hereinbefore stated, are likewise
“each interested in continuing in operation and in ad-
“vancing the interests of each of the said corporations;

“ AND WHEREAS, the expenditures heretofore
“made by the party of the sixth part and the liabili-
“ties incurred by the parties of the second and third
“parts, in pursuance of the terms of the compromise
“and settlement of February 29, 1876, with Ben Holla-
“day, theretofore owner of a majority of the capital
“stock of the said parties of the first, second and third
“parts, by which the interests of said Holladay were pur-
“chased, including the payment of the purchase price
“of the Portland Ware House and Dock property and
“the issuing to said Ben Holladay of Three Hundred
“Thousand Dollars of second mortgage bonds of the

“Oregon Central Railroad Company, upon which the interest was guaranteed by the said Oregon and California Railroad Company, with the consent of the party of the sixth part, were, for the reasons aforesaid, for the benefit of all the parties to this agreement;

“AND WHEREAS, the advance of the sums hereinafter mentioned by the party of the sixth part for the purchase of new steamships for the party of the first part, the covenant and agreement of the parties of the fourth, fifth and sixth parts, not to foreclose or transfer their respective liens for the period of ten years hereinafter contained, the provision for the application of a portion of the earnings of the Steam Ship Company to the construction of the Oregon Central Railroad Company after payment of the claim of the said European creditors of the Steam Ship Company hereinafter contained, and other provisions of this agreement, are, for the reasons aforesaid, of great advantage to and for the material benefit of all the parties to this agreement and form, with the cancellation of said agreements of April 6th and May 26th, 1876, a sufficient consideration and inducement to each of said parties to consent to and accept the terms of the said preliminary agreement of December 6, 1876, and to enter into the final agreement therein provided for;

“AND WHEREAS, the terms and conditions of said preliminary agreement of December 6, 1876, as embodied in this agreement, have been accepted and agreed to by all the parties hereto, so far as the same affects their several rights under said contracts or otherwise;

“ NOW, THEREFORE, in consideration of the
“premises and of the mutual benefits to be derived by
“each under this agreement, the said parties hereto re-
“spectively covenant and agree with the other and others
“of them as follows, that is to say:

“ ARTICLE 1 Upon the execution of this agree-
“ment, said agreements of April 6, 1876, and May 26,
“1876, shall be cancelled and in all respects superseded
“by this agreement, and as between the parties to said
“preliminary agreement of December 6, 1876, both said
“contracts of April 6, 1876, and May 26, 1876, shall be
“deemed and taken to have been superseded by said pre-
“liminary agreement from the date thereof, to-wit, De-
“cember 6, 1876.

“ ARTICLE 2, The said party of the fourth part
“shall, and hereby covenants and agrees to reserve out
“of the net earnings and proceeds of the said Steam
“Ship Company, now pledged to said party of the fourth
“part, Fifteen thousand dollars annually during the
“term of three years, from the 1st day of September,
“1876, in two instalments of Seven thousand five hun-
“dred dollars each, payable every six months, on the last
“days of February and August of each year, and which
“amounts so reserved shall be applied to the payment
“of the interest on Three hundred thousand dollars, seven
“per cent, Oregon Central Railroad Company second
“mortgage bonds, issued to Ben Holladay, in pursuance
“of the before mentioned compromise settlement of Feb-
“ruary 29, 1876, between him and said Henry Villard,
“as agent and on behalf of the party of the sixth part.

“ARTICLE 3. In consideration of the premises and
“the annual payment of Fifteen thousand dollars as stip-
“ulated in Article 2, for the interest on said Three hun-
“dred thousand dollars, second mortgage bonds, issued
“to Ben Holladay, as aforesaid, and in pursuance of said
“several agreements hereinbefore mentioned, said party
“of the sixth part has advanced to the said Oregon Steam
“Ship Company, party of the first part, Seventy thous-
“and dollars gold coin, for the purchase and equipment
“of the Steamship “Geo. W. Elder,” and said party
“of the sixth part has also advanced for the consideration
“aforesaid, and in pursuance of the agreements afore-
“said, for the purchase and equipment of the second
“new steamer as in said contract provided, to-wit: the
“Steam Ship “City of Chester,” the further sum of
“Seventy thousand dollars gold coin.

“AND IT IS AGREED that such advances, so
“made by the party of the sixth part, shall be secured
“by mortgage on the aforementioned new vessels on ac-
“count of which the aforesaid advances were made re-
“spectively, the lien under which mortgage shall be a
“joint one, covering both vessels, and shall be subordi-
“nate only to such lien or liens as have been given or it
“may be necessary to give to the sellers of such new ves-
“sels, or their assigns, to secure such portion of the cost
“of the said two vessels as has not been advanced or paid
“by the parties of the first and sixth parts, or either of
“them.

“ARTICLE 4. The advances to the party of the

“first part by the party of the sixth part, referred to in
“Article 3, shall bear interest at the rate of six (6) per
“cent per annum, and shall be paid to said party of the
“sixth part out of the net earnings of the said party of
“the first part, if such net earnings be sufficient; and,
“if not, then to the extent thereof in the order provided in
“the 5th Article of this agreement, and as follows, to-
“wit: the interest shall be paid semi-annually, and pay-
“ments on account of the principal thus advanced shall
“be made to the amount of not less than 10 per cent
“annually in equal semi-annual payments; after the
“first payment under this stipulation on account of the
“principal, there shall be added to such subsequent pay-
“ment on account of the principal an amount equal to
“the interest saved by the previous payment of prin-
“cipal, so that such semi-annual payments of principal
“and interest, taken together shall be not less than Eleven
“thousand two hundred dollars until said advances are
“fully paid. The semi-annual payments of both princi-
“pal and interest shall be made on the 15th days of
“April and October of each year; but if said advances
“of said party of the sixth part shall have been made
“for less than six months at the time of the first pay-
“ments on account of principal and interest herein pro-
“vided for, the amount of principal and interest then
“due and payable shall only be proportionate to the time
“for which said advances have actually been made pre-
“vious to said time of payment.

“ARTICLE 5. The parties hereto further cove-
“nant and agree, any prior rights of all or any of them

“notwithstanding, to the use and application of the
“earnings of the said party of the first part, the said
“Oregon Steam Ship Company, to the following pur-
“poses and in the following order, to-wit:

“ 1st. To the payment of the cost of the new steam-
“ers above referred to in accordance with the stipula-
“tions and conditions of the bills of sale or building con-
“tracts under which they have been bought or acquired.

“ 2nd. To the payment of interest and principal on
“the advances of the party of the sixth part as set forth
“in Article 4.

“ 3d. To the annual payment for three years of Fif-
“teen thousand dollars as stipulated in Article 2.

“ 4th. To the annual payment of the interest at the
“rate of 10 per cent per annum, and to the principal
“due to the European creditors of the Oregon Steam
“Ship Company, the party of the fourth part; and
“upon the payment in full of the principal and inter-
“est due to the said European creditors of the said Ore-
“gon Steam Ship Company, the stock of that Company
“now held as security by the parties of the fourth and
“fifth parts, or either of them, or their trustees, nominee
“or nominees, shall be transferred to such parties or nomi-
“nees as the party of the sixth part may designate, free
“of all claim of said parties of the fourth and fifth parts,
“and thereafter the earnings of such Steam Ship Com-
“pany shall be divided equally, and one-half thereof
“shall be applied to the payment of the interest (which
“shall be and is reduced to 5 per cent per annum from

“April 6th, A. D. 1876) and of the principal due the
“said party of the fifth part, the said European creditors
“of the Oregon Central Railroad Company; and the
“other half of the said Steam Ship Company’s earnings
“shall come to and be received by the said nominee or
“nominees of the party of the sixth part as the holder
“or holders of the stocks of the said Steam Ship Company
“and shall be applied to the payment of whatever por-
“tion of the interest and of the principal of the ad-
“vances made, and liabilities incurred by the party of
“the sixth part under the said compromise and settle-
“ment with Ben Holladay shall remain unliquidated
“and next to the completion of the said Oregon Central
“Railroad to the junction of said road with the
“Oregon and California Railroad at Junction
“City, or elsewhere, and upon the payment in
“full of the principal and interest due to the
“said European creditors of the Oregon Central Rail-
“road Company, the entire earnings of the Oregon
“Steam Ship Company shall be received by the said
“nominee or nominees of the party of the sixth part, as
“holder or holders of the stock of the said Steam Ship
“Company.

“ ARTICLE 6. Upon full payment or satisfaction
“as provided in this agreement of the principal and in-
“terest of the debts due to the party of the fourth part,
“the said European creditors of the said Oregon Steam
“Ship Company and to the party of the fifth part, the
“said European creditors of the said Oregon Central
“Railroad Company all other securities held by said par-

“ties of the fourth and fifth parts or either of them in
“respect to those debts shall be turned over to the nomi-
“nee or nominees of the party of the sixth part, free of
“all claims of said parties of the fourth and fifth parts,
“to be held by the nominee or nominees of the party
“of the sixth part, in accordance with the true intent of
“this agreement and the rights of the several parties
“hereto.

“ **ARTICLE 7.** The said parties of the fourth and
“fifth parts (the other parties to this agreement con-
“senting thereto) hereby forever releases the said party
“of the sixth part and the said Henry Villard and their
“and his representatives and assigns from all liabilities,
“claims and demands they, the said parties of the fourth
“and fifth parts, or either of them, may now or here-
“after have against said party of the sixth part, or the
“said Henry Villard, or their or his representatives or
“assigns as holder or holders, or otherwise in respect to
“any amount of the stocks of the said Oregon Steam
“Ship Company, or of the said Oregon Central Rail-
“road Company claimed to be unpaid stock, now or at
“any time heretofore held or which may hereafter be
“held by the party of the sixth part, or by the said Henry
“Villard, or by any nominee, agent or representative of
“the party of the sixth part.

“ **ARTICLE 8.** The old steam ships of the said
“Oregon Steam Ship Company not required in the busi-
“ness of said Company shall be sold, and the net pro-
“ceeds applied to the payment of the cost of the said

“new steam ships or after such payment, used in like
“manner as the earnings of said Company.

“ **ARTICLE 9.** The said party of the fifth part fur-
“ther covenants and agrees with the party of the sixth
“part, the other parties consenting thereto, that the said
“party of the sixth part shall have the right and option
“to acquire and purchase the claim of the said party
“of the fifth part, the said European creditors of the
“Oregon Central Railroad Company at any time dur-
“ing the period of three years from December 6, 1876,
“for the sum of Two Hundred and Fifty Thousand Dol-
“lars (\$250,000) gold coin of the United States, and
“the further amount of any deficiency of interest which
“may have accrued between the interest actually earned
“and paid by the said Railroad Company to the party
“of the fifth part, added to the interest paid out of the
“earnings of the said Steam Ship Company, under
“Article 5 of this agreement, and the said interest of 5
“per cent per annum, from the 6th day of April, 1876,
“upon the said principal sum of Two Hundred and Fifty
“Thousand Dollars.

“ **PROVIDED, HOWEVER,** that if said party of
“the sixth part shall, after availing themselves of the
“option to purchase said claim at the price stated, trans-
“fer the road and other property of the said Oregon
“Central Railroad Company, within the period of ten
“years from December 6th, 1876, to any other person,
“persons or corporation, the said party of the fifth part
“shall receive the benefit of whatever consideration over

“and above said Two Hundred and Fifty Thousand Dollars, and such deficiency of interest, as aforesaid, and “the necessary charges, expenditures, advances, and interest (at 6 per cent per annum) of the said party of “the sixth part, may be obtained by said party of the “sixth part, or those whom it now represents for said “property.

“ ARTICLE 10. Neither of the parties of the “fourth, fifth or sixth parts shall, without the consent “in writing of the others first had, foreclose or transfer “the securities held by them respectively of said Corporations, to-wit: the party of the fourth part of the Oregon Steam Ship Company; the party of the fifth part, “of the Oregon Central Railroad Company; and the “party of the sixth part, of the Oregon and California “Railroad Company, for the term of Ten years from “December 6th, 1876, if the Terms and Conditions of “this Agreement shall during the said Term be duly and “faithfully performed. Provided, however, that the “party of the sixth part shall have the right of selling “their interest in the Oregon and California Railroad “Company within the said Term, upon paying or causing to be paid by the said Oregon Steam Ship Company, or otherwise in full, any indebtedness which may “be then due by the said Oregon Steam Ship Company “to the party of the fourth part; and upon paying or “causing to be paid by the said Oregon Central Railroad Company or otherwise, to the said party of the “fifth part, in full for the said claim of the party of the “fifth part (if said party of the sixth part shall not

“previously and within the time limited for that purpose have exercised the right given by Article 9, of purchasing the claim of the party of the fifth part, the said creditors of the Oregon Central Railroad Company) the sum of Four Hundred Thousand Dollars, gold coin, of the United States, and the amount of any such deficiency of interest as mentioned in Article 9, on the said sum of Two Hundred and Fifty Thousand Dollars (\$250,000) to the date of payment of the said Four Hundred Thousand Dollars (\$400,000).

“ARTICLE 11. IT IS UNDERSTOOD AND ACKNOWLEDGED by the parties hereto that the party of the sixth part Contracts and Covenants in these presents as holder of the majority of the First Mortgage Bonds of the said Oregon and California Railroad Company, and it is further understood and agreed that all rights and benefits accruing to the party of the sixth part under these presents shall at all times be enjoyed by such holders of the majority of said Mortgage Bonds. The holding of the majority of such Mortgage Bonds shall be established in the manner provided in Article 12 of the agreement between the Oregon and California Railroad Company and the holders of the first Mortgage Bonds thereof of July 25th, 1874.

“In witness whereof, the said parties of the first second, and third parts have by resolutions of their respective Boards of Directors duly passed, caused caused their respective corporate seals to be hereunto

“affixed, and these presents to be signed by their respective Presidents and Secretaries, and the said parties of the fourth, fifth, and sixth parts by their respective attorneys in fact have hereunto set their hands and seals the day and year first above mentioned.”

Therefore

Contract executed by Presdt & Secy. this date. Directors all paid to date.	Resolved that this Company do enter into such Contract with said parties, and that the President and Secretary of this Company be and they are hereby authorized to ex- ecute said contract in quadrupli- cate in the name of and for and on behalf of this Company under their official signatures and the corpor- ate seal of this Company.
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Mr. Chadwick moved the adoption of the preamble and resolution, seconded by Mr. Koehler and passed, and declared unanimously adopted.

No further business being presented Mr. Koehler moved to adjourn, seconded by Mr. Weidler and passed, the President declared the board adjourned to meet in accordance with the By Laws.

A. G. CUNNINGHAM T. R. CORNELIUS,
Secy.

ANNUAL STOCKHOLDERS MEETING

Office of the
Oregon Central Railroad Company
Portland, Or

Thursday, May 24th, 1877.

Pursuant to notice in accordance with the By-Laws and in accordance with the By-Laws, the Stockholders met at 11 o'clock A. M. this day.

In the absence of the President, R. Koehler, Vice President of the Company, called the meeting to order, and directed the secretary to read the minutes of the last annual Stockholders meeting. Minutes were then read, and no objection being made, the President declared the Minutes to stand approved. The President then stated that this was the day fixed by the By-Laws for electing Seven directors to serve for the ensuing Twelve Months, and directed the secretary to call the names of the stockholders as shown by the certified list furnished from the books of the Company.

The reading said list was then proceeded with and the following stockholders responded present.

M. Crawford.....	1	share
S. F. Chadwick.....	1	"
R. Koehler.....	1	"
R. Kohler Trustee.....	49055 ⁵ / ₈	"
Hans Thielsen.....	1	"
Henry Villard.....	1	"

Total 49060⁵/₈ shares

which being over a majority of all the Capital Stock of the Company, the President appointed Mess. Crawford and Thielsen tellers and directed that the election be proceeded with.

The Stockholders present then deposited their votes, and on the same being canvassed was found to have resulted as follows.

T. R. Cornelius	received	49060 $\frac{5}{8}$	votes
S. F. Chadwick	"	49060 $\frac{5}{8}$	"
Hans Thielsen	"	49060 $\frac{5}{8}$	"
Richard Koehler	"	49060 $\frac{5}{8}$	"
Henry Villard	"	49060 $\frac{5}{8}$	"
C. H. Lewis	"	49060 $\frac{5}{8}$	"
Medorum Crawford	"	49060 $\frac{5}{8}$	"

The stock not all having voted, and no hour named in the ByLaws for closing the election, the President decided to hold the election open during the day, to enable any that should desire to deposit their vote.

During the afternoon the following stock was voted.

Henry Buxton by S. Blank, Proxy.	10	shares
A. C. Brown do	10	"
Stephen Blank	8	"

Total	28	shares
-------	----	--------

all voted for the above named directors, and by order of the President added to the votes previously counted for said directors, making a total vote for each of 49088 $\frac{5}{8}$ shares.

At the close of the day the President declared the

stockholders named above as receiving all the votes cast, as unanimously elected Directors of this Company to serve for the ensuing Twelve Months and executed the following Certificate of Election.

State of Oregon)
) ss
County of Multnomah)

I, Richard Koehler, Vice President of the Oregon Central Railroad Company, a corporation duly incorporated under the laws of Oregon, and in the absence of the President, presiding at the Stockholders election for Directors of said Company, held at the office of said Company, in the City of Portland, Oregon, on this day, do hereby certify that the following Stockholders of said Company each received Forty Nine Thousand Eighty eight and five eighth votes ($49088\frac{5}{8}$) (being all the votes cast at said election).

T. R. Cornelius
S. F. Chadwick
M. Crawford
R. Koehler
C. H. Lewis
Hans Thielsen
Henry Villard

and do hereby declare said stockholders duly and unanimously elected Directors of said Company for the ensuing year.

Portland, Or.

May 24th, 1877.

R. Koehler, Vice Pres't.

No other stock presented and election closed in accordance with By-Laws.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Company
Portland, Or

Wednesday, June 13th, 1877

Pursuant to notice in accordance with the By-Laws the newly elected Directors met at the office of the Company this day at 11 o'clock A. M.

Present Messrs	R. Koehler)	
	Hans Thielsen)	
	M. Crawford)	
	S. F. Chadwick)	
	T. R. Cornelius)	
	C. H. Lewis	)	6

absent H. Villard 1

Members present qualified by taking and subscribing the following oath.

State of Oregon)	
	)	ss
County of Multnomah)	

We, T. R. Cornelius, Hans Thielsen, M. Crawford, C. H. Lewis, S. F. Chadwick, and R. Koehler, being each severally and duly Sworn say, and each for himself says, that we will faithfully and honestly discharge the duties of Directors of the Oregon Central Railroad Company, a corporation duly incorporated under the laws of Oregon, to the best of our ability, so help us God.

T. R. CORNELIUS
H. THIELSEN
M. CRAWFORD
C. H. LEWIS
S. F. CHADWICK
R. KOEHLER

Sworn and subscribed to)
before me this 13th day)
of June A. D. 1877)

John D. Biles,
(Seal) Notary Public.

Mr. Henry Villard filed his qualification in words
and figures following.

"State of New York)
"City and County of New York) ss

"I Henry Villard do solemnly swear that I will well
"and faithfully execute and perform the duties of a Di-
"rector of the Oregon Central Railroad Company, with
"strict impartiality and according to the best of my abil-
"ity.

Signed

"Subscribed and sworn to HENRY VILLARD,
"before me this 25th day
"of May A D 1877

"Signed

"(Seal) Edwin F. Corey

"Commissioner for the State of Oregon in New York.

A Majority being present and all qualified as Di-
rectors, the Secretary called the Board to order, and

announced the election of a member as chairman to preside during the organization of the Board by the election of officers to serve for the ensuing year, to be in order. Mr. Cornelius moved that S. F. Chadwick act as chairman of the board untill the election of President was had, 2d by Mr. Lewis, and unanimously carried. Mr. Chadwick took the chair, and announced the election of a member of the board for President to serve for the ensuing year.

Mr. Koehler nominated T. R. Cornelius, seconded by Mr. Thielsen. There being no objection the vote was taken *viva voce*, and found to be unanimous.

Mr. Cornelius then took the chair and proceeded with the organization, announcing the election of a member of the Board for Vice President, to serve for the ensuing Twelve Months.

Mr. Thielsen nominated R. Koehler, seconded by Mr. Lewis, there being no objection the vote was taken *viva voce*, and found to be unanimous.

Mr. Koehler then nominated A. G. Cunningham for Secretary to serve for the ensuing Twelve Months, seconded by Mr. Crawford. There being no objection the vote was taken *viva voce* and found to be unanimous.

Mr. Koehler then nominated A. G. Cunningham for Treasurer to serve for the ensuing Twelve Months, seconded by Mr. Chadwick, and the vote taken as above, same result.

The President declared the officers of the board

duly elected and that the board was now duly organized for the transaction of business.

The Secretary here submitted the monthly Statement for Month of May and read the total of Earnings and Expenses and the total loss for the calendar year.

Reading the minutes of last Meeting dispensed with.

No other business being presented, on motion of Mr. Koehler, seconded by Mr. Thielsen, the board adjourned to meet in accordance with the By-Laws.

A. G. CUNNINGHAM	T. R. CORNELIUS
Secy.	President.

Office of the
Oregon Central R. R. Co.
Portland, Or. Wednesday July 11th, 1877.

No meeting had this day. No business requiring the action of the board.

A. G. CUNNINGHAM.
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.
Wednesday, Aug. 8th, 1877.

No business requiring the action of the board on this day. No meeting was had.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.

Wednesday, Sept. 12th 1877

No business requiring the action of the Board on this day, a meeting did not take place.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.

Wednesday, Oct. 10th 1877

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.

Wednesday Nov 14th 1877

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central Railroad Company
Portland, Or.

Wednesday Dec 12th 1877

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central Railroad Company
Portland, Or.

Wednesday Jany 9th 1878

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.

Wednesday Feby 13th 1878

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland, Or.

Wednesday Mch 13th 1878

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central R. R. Co.
Portland Oregon

Wednesday April 10th 1878

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM,
Secy.

Office of the
Oregon Central Railroad Company
Portland Oregon

April 25th 1878

Pursuant to call by the Vice President and notice to each Director within the State, in accordance with the By-Laws.

The Board met at 11 o'clock A. M. Members present

T. R. Cornelius
R. Koehler
H. Thielsen
S. F. Chadwick
C. H. Lewis
and M. Crawford. 6

Members absent.

H. Villard (not in the State. 1

The President called the Board to order and stated that this called session was for the consideration of certain agreements which would be read to the Board.

The Company's attorney (J. N. Dolph Esq.) then

read the following.

Whereas an agreement was entered into on or about February 1st, 1878 between the European creditors of this Company and the European creditors of the Oregon Steam Ship Company of Portland, Henrich Hohenemser and others known as the Frankfort Committee owners and holders of majority in number and value of the first Mortgage Bonds of the Oregon and California Railroad Company, and Mrss. Sulzbach Bros. of Frankfort on the Main, Germany, which agreement is in words and figures as follows, to wit:

Agreement made this first day of February One Thousand Eight Hundred and Seventy eight between the European creditors of the Oregon Steam Ship Company by Frederick Rodewald their attorney in fact of the first part, the European creditors of the Oregon Central Railroad Company, by said Frederick Rodewald their attorney in fact of the second part, and Heinrich Hohenemser, Phillip B. Bonn, Paul Reingammon, Herman Kohler, Adolph Otto, Michael Benjamin, Gustav Krauss and Henry Villard hereinafter styled the Frankfort Committee of the third part and Rudolph Sulzbach and Moritz Sulzbach of the fourth part.

Whereas by an agreement made on or about the Twenty eighth March One Thousand Eight Hundred and Seventy Seven between the Oregon Steam Ship Company of the first part, the Oregon and California Railroad Company of the second part, the Oregon Central Railroad Company of the third part, the said Euro-

pean creditors of the Oregon Steam Ship Company (parties hereto) of the fourth part, the said European creditors of the Oregon Central Railroad Company (parties hereto) of the fifth part, and the said Frankfort Committee (parties hereto) of the sixth part certain arrangements were made with reference to earnings of the Oregon Steam Ship Company and certain steam ships to be provided for the said Company and otherwise in consideration of the covenants agreements and releases hereinafter contained, the parties hereto respectively contract and agree with the other and others of them as follows.

FIRST. The Frankfort Committee agree to transfer and release to said Frederick Rodewald or his Nominee or Nominees on behalf of the European creditors of said Oregon Steam Ship Company all the right title and interest of the said Frankfort Committee and their Nominee or Nominees as owners or pledgors or otherwise of all the stock of the Oregon Steam Ship Company and all right or equity of redemption of the said Committee as present equitable owners of said Stock or otherwise therein so that all the stock of the Oregon Steam Ship Company shall become the absolute property of the said European creditors of the Oregon Steam Ship Company or their Nominees, or Nominee free from any incumbrance or charge and the Frankfort Committee shall accordingly cease to be in any way interested in the Oregon Steam Ship Company and the European creditors of the Oregon Steam Ship Company and of the Oregon Central Railroad Company re-

lease and discharge the Oregon and California Railroad Company from all liability in respect of its guaranty of first Mortgage Bonds of the Oregon Steam Ship Company and that such bonds or the guarantee clause endorsed thereon shall be cancelled and the Frankfort Committee of the Oregon and California Railroad Company shall not in any way be liable for the debts and engagements of the Oregon Steam Ship Company.

SECOND. The Frankfort Committee release the Oregon Steam Ship Company from all liability under the recited agreement or otherwise to make any further payments on account of or towards the interest on the Oregon Central Railroad second mortgage Bonds beyond the sum of Seven Thousand Five Hundred dollars which became due on the first day of October last and was not paid and the further sum of Seven Thousand Five Hundred dollars which will become due on the first day of April next and for the sums the said Frankfort Committee will accept the engagement of the Oregon Steam Ship Company one for Seven Thousand five hundred dollars payable on the First day of October, One Thousand eight hundred and Seventy eight without interest, and the other for the like sum payable on the First day of April, One Thousand Eight hundred and Seventy nine without interest. But it is further agreed that the amounts already paid or to be paid as above mentioned by the Oregon Steamship Company on that account shall not be reclaimed but the liability of any therefor by the Oregon Central Railroad Company or the Oregon and California Railroad Company to the

Oregon Steam Ship Company shall be deemed satisfied and cancelled.

THIRD. Save and except as regards the two sums of Seven Thousand five hundred dollars hereinbefore mentioned all rights of the Oregon and California Railroad Company, the Frankfort Committee, the Oregon Central Railroad Company and the European creditors of the Oregon Central Railroad Company in or to the property or earnings of the Oregon Steam Ship Company are hereby determined and released and so far as regards the Oregon Steam Ship Company its property and earnings the definite agreement of March Twenty eight One Thousand eight hundred and Seventy seven is hereby annulled and cancelled.

FOURTH. In consideration of Messieurs Sulzbach releasing the Frankfort Committee from all liability for the sums represented by the contract between the Oregon Steam Ship Company and the Portland Dock and Warehouse Company and the mortgage to Richard Kohler of the Steam Ships "Geo. W. Elder" and "City of Chester" the Oregon Steamship Company shall give Messieurs Sulzbach a new and consolidated mortgage on the property of the Steam Ship Company according to the terms specified in a separate memorandum of even date herewith executed by said Rudolph Sulzbach and Moritz Sulzbach and said Frederick Rodewald.

FIFTH. Said Rudolph Sulzbach and Moritz Sulzbach hereby release and discharge the Frankfort Committee from any and all liability whatsoever for the amounts advanced by the said Sulzbachs and secured by

the assignment of the said contract between the Portland Dock and Warehouse Company and the Oregon Steam Ship Company and of the said mortgage of the steamships "George W. Elder" and "City of Chester", but not for the amount secured by the assignment of the contract between the Portland Dock and Warehouse Company and the Oregon and California Railroad Company.

SIXTH. All the parties hereto respectively covenants and agrees with the others and other of them to execute and procure to be executed by all necessary and proper parties all further deeds, Transfers of Stock and other documents proper or necessary to carry out the provisions and stipulations of this agreement.

SEVENTH. Nothing herein contained shall in any way alter the rights of the respective parties hereto in the property or earnings of the Oregon Central Railroad, except that neither the European creditors of the Oregon Steam Ship Company nor the Oregon Steam Ship Company shall have any interest in or right to such property or earnings as hereinbefore provided nor shall this agreement in any way alter or impair the option of purchase of the interest of the European creditors of the Oregon Central Railroad Company given by the Ninth article of said agreement of March twenty eight One Thousand Eight hundred and Seventy seven.

EIGHTH. This agreement is conditional upon the sanction of the General Assembly of the Bond holders of the Oregon and California Railroad Company

which sanction the parties hereto undertake to use their best efforts to obtain within fourteen days from the date of this agreement and if such sanction is not so given within said fourteen days or such further time as the parties hereto may agree this agreement and the agreement of even date herewith between said Frederick Rodewald and Messieurs Sulzbach shall be void.

IN WITNESS whereof the parties to these presents have hereunto set their hands

European Creditors of the Oregon
Steam Ship Company

(Signed) by FRED'K RODEWALD

European Creditors of the Oregon
Central Railroad Company

(Signed) by FRED'K RODEWALD

The Frankfort Committee

(Signed) by CHAS. E. BRETHERTON.

Sgn Geb. Sulzbach

(Signed) H. KOHLER.

Witness to above signatures

(Signed) R. D. Peebles

and whereas in the opinion of this board it is to the best interest of this Company that said agreement should be ratified and agreed to by this Company,

RESOLVED. That said agreement be and the same is in all respects ratified and confirmed and that the President and Secretary of the Company be and

they are hereby authorized and empowered if requested by either party to said agreement to execute and deliver under their official signatures and the corporate seal of this company a proper and sufficient deed of confirmation of said agreement.

After due consideration Mr. Koehler moved its adoption, seconded by Mr. Crawford, and on the vote being taken was declared unanimously adopted.

Company's attorney then read the following, for consideration and action of the Board.

RESOLVED. That the President and Secretary of this Company be, and they are hereby authorized and directed to execute in the name of and on behalf of this Company and under their official signatures and the corporate seal of this company and for the purposes therein specified that certain indenture of which the following is a copy, to wit:

THIS INDENTURE

Made this 15th day of April, 1878, between Arthur Scrivener of San Francisco in California of the first part,

The Oregon and California Railroad Company of the second part, and the Oregon Central Railroad Company of the third part.

WHEREAS said Oregon and California Railroad Company by instruments dated the 26th day of July, 1872, and respectively endorsed upon Two Thousand Bonds of the Oregon Steam Ship Company dated July

1st, 1872, each for One Thousand Dollars and interest payable as by said Bonds and the Coupons thereto attached is more particularly specified have guaranteed the payment of the said Bonds and interest thereon.

AND WHEREAS, said Arthur Scrivener as agent for the European Creditors of said Oregon Steam Ship Company and of said Oregon Central Railroad Company is now the holder of said Two Thousand Bonds and the Coupons for the interest thereon attached thereto.

AND WHEREAS, by an agreement made the first day of February A D 187. . between the European Creditors of the said Oregon Steam Ship Company by Frederick Rodewald, their attorney in fact, of the first part, the European Creditors of said Oregon Central Railroad Company by said Frederick Rodewald, their attorney in fact, of the second part, and Heinrich Hohenemser, Phillip B. Bonn, Paul Reingammon, Herman Koehler, Adolph Otto, Michael Benjamin, Gustav Krauss and Henry Villard, thereafter styled "The Frankfort Committee" and who control all the stock of said Oregon and California Railroad Company, of the third part, and Rudolph Sulzbach and Moritz Sulzbach, of the fourth part.

IT WAS agreed that in consideration of the transfer and release of the stock of said Steam Ship Company to a Nominee or Nominees of said European Creditors of said Oregon Steam Ship Company and for other considerations therein mentioned said guarantee should

be cancelled and discharged.

NOW THIS INDENTURE WITNESSETH:

That in pursuance of said agreement and in consideration of the transfer on the date hereof of Three Million Dollars or thereabouts of the Capital Stock of said Oregon Steam Ship Company to said Arthur Scrivener or his Nominee or Nominees as aforesaid and for the considerations in said agreement mentioned, said Arthur Scrivener as holder of said Bonds and as agent as aforesaid of the European Creditors of said Oregon Steam Ship Company and said Oregon Central Railroad Company, doth hereby acquit, release, and discharge the said Oregon and California Railroad Company of and from all actions, suits, claims, demands and liabilities whatsoever and of every description, for, or in any manner in respect of the said guarantee endorsed on said Two Thousand Bonds of said Oregon Steam Ship Company hereinbefore referred to, or in respect of said Bonds or any interest accrued or hereafter to accrue due thereon and doth hereby covenant with said Oregon and California Railroad Company its successors and assigns respectively that he will forthwith on the execution of these presents cancel each of said instruments of guarantees and erase the same from said Bonds by stamping or writing across the same the form specified in the schedule hereto and duly subscribing and executing the same.

IN WITNESS WHEREOF the said Arthur Scrivener has hereunto set his hand and seal and the said Oregon and California Railroad Company and

Oregon Central Railroad Company have respectively caused these presents to be sealed with their corporate seals, signed by their Presidents and attested by their Secretaries the day and year first above written.

Schedule.

In pursuance of an agreement made this 15th day of April, A. D. 1878, between the undersigned Arthur Scrivener as holder of the within written Bond, of the first part, the Oregon and California Railroad Company of the second part and the Oregon Central Railroad Company of the third part and for the considerations therein described this guarantee is hereby discharged, erased and cancelled.

As witness my hand and seal this 15th April, 1878.

(Signed) A. Scrivener. (Seal)

After being duly considered by the Board Mr. Koehler moved its adoption, seconded by Mr. Lewis, and on the vote being taken was declared unanimously adopted.

No further business being before the Board,

Mr. Koehler moved to adjourn seconded by Mr. Lewis, and on the vote being taken the President declared the Board adjourned without day.

A. G. Cunningham

Secretary.

T. R. CORNELIUS

President.

Office of the
Oregon Central Railroad Company
Portland Oregon Wednesday May 8th 1878

Pursuant to Call and Notice to each Director, in accordance with the By-Laws, the Board met at 11 o'clock A. M. this being the regular Monthly meeting. The following members were present.

R. Koehler	
C. H. Lewis	
Hans Thielsen	and
T. R. Cornelius	
M. Crawford	
S. F. Chadwick	6

Members absent

Henry Villard. 1.

The President took the chair at 11:30 A. M. and called the Board to Order.

Mr. Koehler offered the following resolution, which he read to the Board.

RESOLVED. That the President and Secretary of this Company be and they are hereby authorized and directed to borrow of such person or persons, firms or corporations as they shall see fit and upon such terms and conditions and for such time as they shall deem advisable such sum or sums of money as in their judgment shall be necessary to meet the current expenses of this Company to pay its Taxes, to make necessary repairs and to liquidate the indebtedness of this Company now

due, accrued for the purposes aforesaid or either of them, and for such purpose to execute in the name of this Company and on its behalf and under their official signatures and the corporate seal of this Company all necessary notes or other obligations of this Company for the money so borrowed, and in like manner to give such security for the payment of such money in the name of and on behalf of this Company as shall be demanded by the lender and as this Company can lawfully give by pledge of the net earnings of this Company or otherwise.

Seconded by Mr. Crawford and passed, declared adopted unanimously.

Mr. Richard Koehler tendered his resignation as Director of this Company in words and figures following.

“ Portland Or May 8th 1878

“To the Board of Directors

“ Of the O Central Railroad Company

“ Gentlemen

“ Herewith I tender my resignation as a
“director of the Oregon Central Railroad Company to
“take effect as soon as my successor shall be elected and
“qualified.

“ Very Respectfully Yours,

“ (Signed) R. KOEHLER.

which was read to the Board by the Secretary, and on motion of Mr. Lewis seconded by Mr. Crawford, put to vote and accepted

Mr. Thielsen nominated Mr. J. N. Dolph for Director to fill the vacancy occasioned by the resignation of Mr. Koehler, seconded by Mr. Chadwick and on the vote being taken Mr. J. N. Dolph was declared duly elected a Director of this Company.

The resignation of Mr. Koehler as Director causing a vacancy in the office of Vice President, the President announced the election of a Vice President as next in order.

Mr. Chadwick nominated Mr. J. N. Dolph for Vice President to fill the vacancy occasioned by Mr. Koehler's resignation as director, seconded by Mr. Lewis. No other nominations were made, and on the vote being taken Mr. J. N. Dolph was declared duly elected Vice President of this Company.

The Secretary submitted the Monthly Trial Balance from the books of the Company, for Mo. of April 1878, showing a loss on Earnings act. of \$472.94 for the month and a total loss of \$10,290.58 for the year 1878.

Mr. J. N. Dolph filed his qualifications as Director of this Company in words and figures following:

"State of Oregon)
" (SS
"County of Multnomah)

" I, Joseph N. Dolph, being first duly sworn say
"that I will support and maintain the Constitution and
"laws of the United States and the Constitution and
"laws of the State of Oregon and will faithfully and

“honestly discharge the duties of Director of the Oregon
 “Central Railroad Company a Corporation incorporat-
 “ed under the laws of said State of Oregon, so help me
 “God. (Signed) JOSEPH N. DOLPH

“Subscribed and sworn to before me this 8th day of May
 “1878.

“ (Signed) JNO D. BILES.

“ (Seal) Notary Public.

Mr. J. N. Dolph having qualified as a Director took
 his seat in the Board.

No further business being before the Board Mr.
 Thielsen moved to adjourn, seconded by Mr. Crawford,
 and passed.

The President announced the Board adjourned
 without day.

A. G. CUNNINGHAM, T. R. CORNELIUS
 Secretary.

STOCK HOLDERS ANNUAL MEETING

Office of the

Oregon Central R R Co

Portland Oregon

Thursday May 23d 1878

In pursuance of notice in accordance with the By-
 Laws and in accordance with the By-Laws, the Stock-
 holders met at 11 o'clock A. M. this day.

In the absence of the president, J. N. Dolph, Vice

President, called the meeting to order, and directed the secretary to call the names of the Stockholders of the Company as shown by the certified statement submitted by the Secretary from the Stock Ledger of the Company.

The following stockholders responded present.

M. Crawford	1	share
S. F. Chadwick	1	"
R. Koehler by J. N. Dolph atty Proxy	1	"
R. Koehler, Trustee, by J. N. Dolph, atty Proxy	49054 ⁵ / ₈	shares
J. N. Dolph	1	"
Hans Thielsen	1	"
Total	49059 ⁵ / ₈	shares

The President announced the reading of the Minutes of the last annual Meeting of the Stockholders as next in order, when Mr. Crawford moved to dispense with the reading of, and that the minutes stand approved, which was seconded by Mr. Thielsen and unanimously adopted. The Minutes stand approved.

The Vice President then announced the election of Seven Directors to serve for the ensuing Twelve Months as next in order, and appointed Hans Thielsen as teller.

The Stockholders present then deposited their votes with the teller, who, after canvassing the votes cast, reported the following result to the Vice President.

Henry Villard	received	49059 ⁵ / ₈	Votes
T. R. Cornelius	"	49059 ⁵ / ₈	"
J. N. Dolph	"	49059 ⁵ / ₈	"
C. H. Lewis	"	49059 ⁵ / ₈	"

"honestly discharge the duties of Director of the Oregon
 "Central Railroad Company a Corporation incorporat-
 "ed under the laws of said State of Oregon, so help me
 "God. (Signed) JOSEPH N. DOLPH

"Subscribed and sworn to before me this 8th day of May
 "1878.

" (Signed) JNO D. BILES.

" (Seal) Notary Public.

Mr. J. N. Dolph having qualified as a Director took
 his seat in the Board.

No further business being before the Board Mr.
 Thielsen moved to adjourn, seconded by Mr. Crawford,
 and passed.

The President announced the Board adjourned
 without day.

A. G. CUNNINGHAM, T. R. CORNELIUS
 Secretary.

STOCK HOLDERS ANNUAL MEETING

Office of the
 Oregon Central R R Co

Portland Oregon

Thursday May 23d 1878

In pursuance of notice in accordance with the By-
 Laws and in accordance with the By-Laws, the Stock-
 holders met at 11 o'clock A. M. this day.

In the absence of the president, J. N. Dolph, Vice

President, called the meeting to order, and directed the secretary to call the names of the Stockholders of the Company as shown by the certified statement submitted by the Secretary from the Stock Ledger of the Company.

The following stockholders responded present.

M. Crawford	1	share
S. F. Chadwick	1	"
R. Koehler by J. N. Dolph atty Proxy	1	"
R. Koehler, Trustee, by J. N. Dolph,		
atty Proxy	49054 ⁵ / ₈	shares
J. N. Dolph	1	"
Hans Thielsen	1	"
Total	49059 ⁵ / ₈	shares

The President announced the reading of the Minutes of the last annual Meeting of the Stockholders as next in order, when Mr. Crawford moved to dispense with the reading of, and that the minutes stand approved, which was seconded by Mr. Thielsen and unanimously adopted. The Minutes stand approved.

The Vice President then announced the election of Seven Directors to serve for the ensuing Twelve Months as next in order, and appointed Hans Thielsen as teller.

The Stockholders present then deposited their votes with the teller, who, after canvassing the votes cast, reported the following result to the Vice President.

Henry Villard	received	49059 ⁵ / ₈	Votes
T. R. Cornelius	"	49059 ⁵ / ₈	"
J. N. Dolph	"	49059 ⁵ / ₈	"
C. H. Lewis	"	49059 ⁵ / ₈	"

Hans Thielsen	"	49059 $\frac{5}{8}$	"
S. F. Chadwick	"	49059 $\frac{5}{8}$	"
Medorem Crawford	"	49059 $\frac{5}{8}$	"

The V. President declared said Stockholders duly elected such Directors, and executed the following certificate of election.

State of Oregon)
 (SS
 County of Multnomah)

" I, Joseph N. Dolph, Vice President of the Oregon
 "Central R. R. Co. a corporation duly incorporated un-
 "der the laws of Oregon, and President of the Stock-
 "holders meeting do hereby certify that at the annual
 "meeting of the Stockholders of the said Oregon Central
 "Railroad Company held at the office of said Company
 "at Portland, Oregon, on the 23d day of May A. D.
 "1878 (That being the time and place fixed by law and
 "the By-Laws of said Company for such Meeting) the
 "following named persons, to wit: T. R. Cornelius, J. N.
 "Dolph, H. Thielsen, C. H. Lewis, M. Crawford, S. F.
 "Chadwick and H. Villard, were each duly elected Di-
 "rectors of the said Oregon Central Railroad Company
 "for the ensuing year, each receiving a majority of the
 "votes of all the capital stock of said Company.

May 23d 1878

J. N. DOLPH

Vice President.

On motion of H. Thielsen, seconded by M. Crawford, the meeting adjourned without day.

A. G. Cunningham
 Secy.

J. N. DOLPH
 V. President

“State of Oregon)
) SS
“County of Multnomah.)

“ (Signed) S. F. CHADWICK
“ M. CRAWFORD
“ H. THIELSEN
“ J. N. DOLPH

Seal Notary Public

“State of New York)
) SS
“City and County of New York)

“ I solemnly swear to discharge the duties
“of a Director of the Oregon Central Railroad Com-

“pany faithfully and to the best of my knowledge and
 “ability and in accordance with the By-Laws of the
 “Company and with the laws of the State of Oregon.

“ (Signed) **HENRY VILLARD.**

“Sworn and subscribed to before me this 24th day of
 “May, A. D. 1878.

(Signed) **EDWIN F. COREY**

Commissioner for the State of Oregon in New York.

Office O & C R R Co.

Portland Or.

Wednesday June 12th 1878

The Secretary not being able to attend the meeting
 of the newly elected Board of Directors, to have been
 held this day for the purpose of organization. No meet-
 ing was held.

A. G. CUNNINGHAM.

Secy.

Mrss. Cornelius and Lewis, Directors elected on the
 23d day of May 1878 filed their separate qualifications
 as such Directors in words and figures following.

“State of Oregon)
 (SS
 “County of Multnomah)

“ I, **T. R. Cornelius**, being duly sworn say
 “that I will faithfully and honestly discharge the duties
 “of Director of the Oregon Central Railroad Company,
 “a corporation duly incorporated under the laws of Ore-
 “gon, to the best of my ability, so help me God.

(Signed) **T. R. CORNELIUS.**

“Subscribed and sworn to before me this 10th day of
“July, A. D. 1878.

“ (Signed) P. SCHULZER,
“ (Seal) Notary Public.

“State of Oregon)
“County of Multnomah) (SS

“ I, C. H. Lewis, being duly sworn say
“that I will faithfully and honestly discharge the duties
“of Director of the Oregon Central Railroad Company,
“a corporation duly incorporated under the laws of Ore-
“gon, to the best of my ability, so help me God.

(Signed) C. H. LEWIS.

Subscribed and sworn to before me this 10th day of
July, A. D. 1878. (Signed) P. SCHULZER,
(Seal) Notary Public.

Office of the
Oregon Central R. R. Co.,
Portland Or.

Wednesday, July 10th 1878

Pursuant to Notice to each Director within the State
and in accordance with the By-Laws, the newly elected
Board of Directors met this day at 11 o'clock A. M.
Members present

T. R. Cornelius,
J. N. Dolph
C. H. Lewis

and Hans Thielsen 4

Absent

M. Crawford.

S. F. Chadwick

and Henry Villard 3.

There being a majority present and all the members having filed their qualification as such Directors as appears of record on pages 29 and 30 of this Journal.

The Secretary called the Board to order, called the roll, and announced that this was the first meeting of the newly elected Board, that a majority was present, and that the first business in order was the election of a chairman to preside until a President should be elected, that nominations for chairman was in order.

Mr. Lewis nominated J. N. Dolph for chairman, seconded by Mr. Thielsen. No further nominations were made, the election was proceeded with and Mr. Dolph was declared elected chairman, took the chair and announced the election of a member of the Board as President, and that nominations was then in order.

Mr. Lewis nominated T. R. Cornelius for President, seconded by Mr. Thielsen, no other nominations were made, the election was proceeded with and Mr. Cornelius declared elected President, took the chair as such President and announced the election of a Vice President as the next business, and that nominations was then in order.

H. Thielsen then nominated J. N. Dolph for Vice President, seconded by C. H. Lewis. No other nomi-

nation was made. The election was proceeded with and J. N. Dolph declared elected Vice President.

The President then announced the election of Secretary as next in order. Mr. Dolph nominated A. G. Cunningham for Secretary, seconded by H. Thielsen. No other nomination was offered, the election was proceeded with and A. G. Cunningham was declared elected Secretary.

The President then announced the election of Treasurer as next in order. Mr. Dolph nominated A. G. Cunningham for Treasurer, seconded by Mr. Lewis. No other nomination was offered, the election was proceeded with and A. G. Cunningham was declared elected Treasurer.

The President announced the Board as duly organized and ready for the transaction of business.

The Secretary then submitted the Monthly trial balance Statement for Month of June, and read the totals of operating act. and Bal. Loss for the year 1878 to 30th June and answered such queries as were made by Members of the Board.

No other business being presented the President stated the fact and announced a motion to adjourn was in order.

Mr. Dolph moved to adjourn, seconded by Mr. Lewis, the vote being taken the Motion prevailed, and the President announced the Board adjourned without day.

A. G. CUNNINGHAM

Secy.

T. R. CORNELIUS

President

Office of the
O. C. R. R. Co.

Portland, Or Wednesday Aug 14th 1878

No business demanding action of the Board. Consequently no meeting was had this day.

A. G. CUNNINGHAM.
Secy.

Office of the
O. C. R. R. Co.,

Portland, Or.,

Wednesday Sept. 11th, 1878.

No business demanding action of the Board. Consequently no meeting was had this day.

A. G. CUNNINGHAM,
Sy.

Office of the
O. C. R. R. Co.

Portland, Or. Wednesday Oct. 9th 1878

No business for action of Board. No meeting had this day.

A. G. CUNNINGHAM Sy.

Office of the
Oregon Central R R Co

Portland Or Nov. 7th 1878

Pursuant to call by the President the Board met at 11 o'clock A. M. Members present

T. R. Cornelius
M. Crawford
J. N. Dolph
Hans Thielsen
S. F. Chadwick.
C. H. Lewis 6

Absent

Henry Villard 1

The President the meeting to order and announced the board ready for business. Mr. J. N. Dolph then read for the information and action of the Board the following preamble, and resolutions:—

Whereas this Company heretofore and at the date thereof, executed and delivered to Ben Holladay President, the two certain promissory notes of this Company for the sum of \$500,000 each, copies of which notes are hereinafter and in a copy of an agreement hereinafter contained and set forth, and

Whereas said Ben Holladay as such President endorsed said notes in blank and delivered them to Milton S. Latham as agent for certain other parties and said Latham is now the holder thereof, and

Whereas said Milton S. Latham also holds as a pledge and collateral security for the payment of said promissory notes certain Bonds of this Company and certain bonds and stock of the Oregon Steam Ship Company, and

Whereas, although said promissory notes are long since due, this Company is unable to meet and pay the

same, and

Whereas the Statute of Limitation of the State of California has run or is about to run and bar an action upon said notes in said State, and whereas said Latham as Trustee aforesaid is willing to extend the time of payment of said notes upon condition that this Company will waive the bar of said Statute of Limitation and renew its liability and promises to pay said promissory notes so that an action or suit may be maintained upon said notes in the State of California and so that the Statute of Limitation shall commence to run only from the expiration of such extension of time of payment:—

RESOLVED, That the President and Secretary of this Company be and they are hereby authorized and directed to execute and deliver in the name of and for and on behalf of this Company and under their official signatures and the Corporate seal of this Company an agreement with said Milton S. Latham Trustee, extending the time of payment of said notes, waiving the bar of the Statute of Limitations and renewing the liability and promises of this Company to pay said promissory notes, of which agreement the following is a copy, to wit:—

Articles of agreement made this day of in the year one thousand eight hundred and seventy eight (1878) Between Milton S. Latham as Trustee and on behalf of the owners of the promissory notes hereinafter mentioned, the party of the first part and the Oregon Central Railroad Company, a Corporation, duly incor-

porated under the laws of the State of Oregon, the party of the second part, Witnesseth:

Whereas on the 29th day of February 1872 the said party of the second part made and delivered its promissory note to Mr. Ben. Holladay of which the following is a copy:—

“\$500,000. Portland, Oregon, 29th February 1872

“One year after date without grace, The Oregon Central Railroad Company promises to pay to the order of “Mr. Ben Holladay, President, in San Francisco, the “sum of Five Hundred Thousand dollars in gold coin “of the United States for value received with interest “from date until paid, at the rate of ten per cent per annum payable quarterly in like gold coin. This note is “executed in pursuance of a Resolution of the Board of “Trustees of said Railroad passed 9th February 1872.

“ Witness our hands and the seal of said Corporation “on this the 29th day of February 1872.

“	BEN HOLLADAY
(Seal of the	President of the Oregon Central
Corporation)	R. R. Co., C. S. DYER,
	Secretary of the Oregon Central
	R. R. Co.

and whereas on the 29th day of August 1872 the said party of the second part made and delivered its promissory note to Mr. Ben Holladay of which the following is a copy:

“\$500,000 Portland, Oregon 29 August 1872
 “One year after date without grace The Oregon Central
 “Railroad Company promise to pay to the order of Mr.
 “Ben Holladay President in San Francisco, the sum
 “of Five Hundred Thousand Dollars in gold coin of
 “the United States for value received with interest from
 “date untill paid at the rate of ten per cent per annum,
 “payable quarterly in like gold coin.

“ This note is executed in pursuance of a Resolution
 “of the Board of Directors of said Railroad passed 9th
 “February 1872.

“ Witness our hands under the seal of said Corpora-
 “tion on this the 29th day of August A. D. 1872.

“ BEN HOLLADAY
 “(Seal of the President of Oregon Central R. R. Co.
 “Corporation) C. S. DYER,

Secretary Oregon Central R. R. Co.”

And whereas the said Ben Holladay duly endorsed said notes in blank as such President and delivered them so endorsed at the dates aforesaid for value, to the said party of the first part as agent for certain other parties, and said party of the first part is now the lawful holder thereof; and

Whereas, on the 19th day of March, 1873, the said Ben Holladay executed and delivered to the said party of the first part an instrument of which the following is a copy:

“ For and in consideration of One Dollar to me in

“hand paid and for other valuable considerations, I do
“hereby deposit with Milton S. Latham as collateral security for the payment of certain promissory notes described below, to-wit:

“ One note for \$500,000 gold dated 29 February, 1872,
“made by the Oregon Central Railroad Company to the
“order of and endorsed by Mr. Ben Holladay, President,
“due 28 February, 1873, and bearing interest from date
“at the rate of ten per cent per annum.

“ One note for \$500,000 gold, dated 29 August, 1872,
“made by the Oregon Central Railroad Company to the
“order of and endorsed by Mr. Ben Holladay, President,
“due 29 August, 1873, and bearing interest from date
“at the rate of ten per cent per annum, which said notes
“are now held by said Milton S. Latham for account of
“owners.

“ The following personal property, of which I am the
“sole owner, the same being at my risk and expense, to-wit: Twenty-Nine Thousand Nine Hundred and
“Ninety-Seven (29,997) Shares of the capital stock and
“Two Million Dollars (\$2,000,000) worth of Bonds of
“the Oregon Steam Ship Company. In case of the
“non-payment of the aforesaid promissory notes or
“either of them, or of the interest thereon when due, I
“hereby appoint and constitute Milton S. Latham, his
“successors or assigns, my attorney irrevocable with power of substitution to sell at any time after the said notes
“or either of them or interest is due and remains unpaid,
“with or without notice to me, the whole or any part

“of said security either at public or private sale, at his
“discretion, the proceeds to be applied to the payment of
“the aforesaid promissory notes with interest due and
“commission on sales, any surplus after said payment
“to be held subject to my order.

“ On payment of the aforesaid promissory notes and
“interest, this agreement to be void and the security men-
“tioned to be returned to me. This hypothecation is made
“subject to all the legal rights of a certain hypothecation
“executed by the Oregon Steam Ship Company on 1st
“day of August, 1872, to secure the payment of a note
“made by them for \$800,000, dated Portland, Oregon,
“August 1st, 1872, and due on the 1st day of October,
“1873, bearing interest at the rate of ten per cent per
“annum.

“ Witness my hand this Nineteenth day of March,
“1873.

“ San Francisco, Cal.

BEN HOLLADAY.

“ Witness: Wm. Norris.”

And Whereas, at the same time the said Ben Holladay delivered to the said party of the first part the securities therein mentioned in pledge as aforesaid, and said party of the first part is now the lawful holder and pledgee thereof as Trustee as aforesaid; and

Whereas, by a certain agreement in writing duly executed and delivered by and between the parties hereto bearing date the 30th day of May, 1876, it was mutually covenanted, contracted and agreed that the

times of payments of the said notes should be extended for the period of six months from the date hereof, to-wit: until the 30th day of November, 1876, and that the Statute of Limitation should not commence to run against the said notes until the said 30th day of November, 1876, either as to an action to be brought in the State of Oregon or the State of California; and

Whereas, it is the intention of the parties of the first and second parts that the time of payment of the said notes shall be further extended and that the Statute of Limitation shall not commence to run against the same until the expiration of the further and second extended time either as to an action to be brought in the State of Oregon or the State of California;

Now, Therefore, the said party of the first part as Trustee as aforesaid hereby covenants and agrees for and in consideration of the sum of One Dollar to him in hand paid and the promises and agreements of the party of the second part hereinafter mentioned, that the time and payment of maturity of said notes hereinbefore recited is hereby extended for a period of six months from November 30th, 1878, to-wit: until May 30, 1879, until which time they will remain owing but not payable.

And the said party of the second part as well in consideration of the above second extension of the time of payment of the foregoing notes and of the payment of One Dollar the receipt whereof is hereby acknowledged as otherwise hereby promises and agrees for itself, its successors and assigns, that it will, and the said party

of the second part hereby does, waive the bar or the application of the Statute of Limitation to the said notes at the time when the same would be applicable to said notes or either of them, but for this agreement and the said agreement of May 30th, 1876, and the said party of the second part hereby makes and acknowledges this as a new and Continuing Contract by which the case of said promissory notes and either of them is taken out of and withheld from the operation of the Statute of Limitations and hereby takes and withholds said notes out of and from the operation of said Statute and it hereby renews (as of that date, to-wit: May 30th, 1879) its liability to pay, and said party of the second part hereby promises to pay the said notes with interest thereon at the rate of ten per cent per annum as in said notes stated, and the said party of the second part further promises and agrees that inasmuch as under this agreement and the said agreement of May 30th, 1876, a cause of action on said notes will not arise until said May 30th, 1879, the Statute of Limitation shall not commence to run against said notes or either of them until that time and shall then commence to run as to either of the actions aforementioned.

And the said party of the second part, for the consideration hereinbefore mentioned, and other considerations, hereby further promises and agrees for itself, its successors and assigns, that the securities hereinbefore hypothecated to said party of the first part as hereinbefore described or otherwise, shall continue in the possession of the said party of the first part as Trustee

as aforesaid under the terms and agreements of the said instrument hereinbefore recited, or any other instrument hypothecating the same for and during said extension herein given, and that the right of the party of the first part to hold the title and control thereof as in said instrument mentioned and confirmed, shall in no wise be impaired or affected by the agreements of extension and waiver above mentioned.

In witness whereof the said party of the first part has set his hand and seal hereto, and the said party of the second part has caused these presents to be signed by its President and Secretary and its corporate seal to be affixed hereto the day and year first above written.

Signed, sealed and delivered in the presence of

(SEAL)

In consideration of the extension of the time of payment of the promissory notes mentioned within and of One Dollar to it in hand paid by the Oregon Central Railroad Company and of other good and sufficient considerations, to the Oregon Steam Ship Company, a corporation duly incorporated under the laws of Oregon, hereby consents to all the terms and conditions of the within agreement and to the extension of the same by the parties thereto, and to the extension of the time of payment of said notes as in the said agreement provided, without prejudice to the continuance of all the rights of the said Milton S. Latham, Trustee, party to said agreement in the said bonds of this Company in said agreement mentioned as created by the hypothecation thereof

to said Latham, Trustee, as collateral security for the payment of said promissory notes.

In witness whereof said Oregon Steam Ship Company has by resolution of its Board of Directors duly passed has caused this instrument to be signed by its President and Secretary and its corporate seal to be affixed this day of 1878.

In presence of)

President of Oregon Steam Ship Company.

Secretary of Oregon Steam Ship Company

For and in consideration of the covenants and promises in the foregoing agreement and in ratification thereof I hereby covenant and agree that the execution of said agreement by said Milton S. Latham shall not in any wise prejudice his right to continue to hold the security of stock and bonds which was heretofore hypothecated by me to him on the first day of August, 1872, to secure the payment of the debt mentioned in and extended by the said agreement, and that notwithstanding said extension of said debt the stock and bonds mentioned in said agreement and any stock or bonds to me now or heretofore belonging and which were by me hypothecated as security for the payment of said debt shall be and continue security as aforesaid, so far as I have or have had any interest therein for the payment of said debt until the same shall have been fully paid.

Dated.

Witness.

And that a certified copy of this resolution be furnished said Latham.

After the reading Mr. Dolph moved its adoption, seconded by Mr. Crawford, and unanimously adopted.

On motion of Mr. Lewis, seconded by Mr. Thiel-
sen, the board adjourned.

A. G. CUNNINGHAM, Secty.

T. R. CORNELIUS, President.

Office of the
Oregon Central R. R. Co.

Portland, Oregon,

Wednesday, Nov. 13th, 1878.

No meeting of the Board of Directors held this day.

A. G. CUNNINGHAM, Secty.

Office of the
Oregon Central R. R. Co.

Portland, Oregon,

Wednesday, Dec. 11th, 1878.

No meeting of the Board of Directors of this Com-
pany had this day.

A. G. CUNNINGHAM, Secty.

Office of the
Oregon Central R. R. Co.

Portland, Oregon,

Portland, Or., Wednesday, Jany. 8th, 1879.

No meeting of the Board of Directors of this Com-
pany had this day.

A. G. CUNNINGHAM, Secty.

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Wednesday, Feby. 12th, 1879.

No meeting of the Board of Directors of this Company had this day.

A. G. CUNNINGHAM, Secty.

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Feby. 28, 1879.

Pursuant to call and notice to each Director within the State, the Board met at 11 o'clock A. M. this day.

Members present

C. H. LEWIS
HANS THIELSEN
M. CRAWFORD
T. R. CORNELIUS
J. N. DOLPH. 5

Absent

HENRY VILLARD
S. F. CHADWICK. 2

T. R. Cornelius, President, took the chair and called the Board to order.

Mr. Dolph then offered the following resolution, and moved its adoption:

Resolved. That the President and Secretary of this Company be and they are hereby authorized and directed to borrow for this Company of the Oregon and California Railroad Company, a corporation incorporated under the laws of Oregon, for such time and upon such

terms as shall be required to pay the interest accrued and payable to September first, A. D. 1878, upon the second mortgage bonds of this Company, Three Hundred Thousand Dollars in amount, and secured by a Second mortgage upon the road and property of this Company bearing the date the 1st day of March, 1876, and executed to W. D. Shipman and S. L. M. Barlow, as Trustees, and to cause the money so to be borrowed to be so paid or applied as that the coupons for said interest shall be held by said Oregon and California Railroad Company as security for said loan or in lieu thereof to make any arrangement with said Company in their judgment proper, by which the coupons for the interest aforesaid shall be taken up and held by said Oregon and California Railroad Company to be paid by this Company at such times and in such manner and upon such terms as they shall deem advisable and that said President and Secretary are hereby authorized and directed to execute in the name of this Company under their official signatures and the corporate seal of this Company all such promissory notes and other instruments in writing as in their judgment shall be necessary or convenient in the premises.

After being read to the Board Mr. Thielsen seconded the motion, and on the vote being taken was declared unanimously adopted.

Mr. Dolph moved to adjourn, Mr. Crawford seconded the motion, and the Board voted to adjourn.

A. G. CUNNINGHAM, Sy.

T. R. CORNELIUS, President.

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Wednesday, Mch. 12th, 1879.

No meeting of the Board of Directors had this day.

A. G. CUNNINGHAM, Sy.

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Wednesday, April 9th, 1879.

No meeting of the Board of Directors had this day.

A. G. CUNNINGHAM, Sy.

Office of the
Oregon Central R. R. Co.

Portland, Or., Wednesday, May 14th, 1879.

No meeting of the Board of Directors had this day.

A. G. CUNNINGHAM, Sy.

ANNUAL MEETING

of the
STOCK HOLDERS

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Thursday, May 22nd, 1879.

In pursuance of notice in accordance with the By-Laws, and in accordance with the By-Laws, the Stockholders met at 11 o'clock A. M.

In the absence of the President, J. N. Dolph, Vice-

President, took the chair, and and called the meeting to order. The Secretary then submitted a certificate of the Stockholders as shown by the books this day.

The V. President directed the Secretary to call the Stockholders and note the stock present. After completing the call, the Secretary reported the following stockholders present.

S. F. Chadwick	1	share
J. N. Dolph	1	do
R. Koehler	1	do
R. Koehler Trustee	49054 5-8	do
C. H. Lewis	1	do
H. Villard	1	do
Total shares represented	49059 5-8	

being over a majority of shares of the Capital Stock. The Vice President announced it in order to proceed with the election of Seven Stockholders as Directors to serve for the ensuing Twelve Months, and appointed S. F. Chadwick as teller. The election was then proceeded with by ballot, and on canvassing the vote, the following stockholders were found to have each received 49059 5-8 votes, and were declared unanimously elected such Directors. Viz.

Henry Villard	S. F. Chadwick
T. R. Cornelius and Richard Koehler	
J. N. Dolph	
M. Crawford	
C. H. Lewis	

The Vice President then certified this election as follows:

State of Oregon,)
) ss.
County of Multnomah,)

I, Joseph N. Dolph, Vice President of the Oregon Central Railroad Company a corporation duly incorporated under the laws of Oregon and President of the Stockholders Meeting do hereby certify that at the annual meeting of the stockholders of the said Oregon Central Railroad Company held at the office of said Company at Portland, Oregon on the 22nd day of May A. D. 1879 (that being the time and place fixed by law and by the By-Laws of said Company for such meeting) the following persons to-wit: H. Villard, T. R. Cornelius, J. N. Dolph, M. Crawford, C. H. Lewis, S. V. Chadwick, and R. Koehler, were each duly elected Directors of the said Oregon Central Railroad Company for the ensuing year, each receiving a majority of all the capital stock of said company.

May 22d, 1879.

J. N. DOLPH,
Vice President.

On motion of R. Koehler, seconded by Mr. Chadwick, meeting adjourned without day.

J. N. DOLPH Vice President.

A. G. CUNNINGHAM, Sy.

Office of the
Oregon Central R. R. Co.

Portland Oregon Wednesday June 11th 1879.

This being the regular Monthly Meeting the Board
met at 11 o'clock A. M. Members present

C. H. Lewis
R. Koehler
S. F. Chadwick
J. N. Dolph
T. R. Cornelius
M. Crawford—6

Absent:

Henry Villard, not in the State—1.

The Members all having filed their qualification as
Directors in words and figures following,

“State of Oregon)
) ss.
“ County of Multnomah)

“ We, H. Villard, J. N. Dolph, C. H. Lewis, S. F.
“Chadwick, and Richard Koehler being each severally
“duly sworn, say and each for himself says, That I will
“faithfully and honestly discharge the duties of Director
“of the Oregon Central Railroad Company, to the best
“of my ability, so help me God.

(Signed) Henry Villard
C. H. Lewis
R. Koehler
S. F. Chadwick
J. N. Dolph

"Subscribed and Sworn to before me this 22nd day of May 1879.

(Seal)

(Signed) P. Schulze,

Notary Public for the State of Oregon.

"State of Oregon)
) ss.

" County of Multnomah)

" We, T. R. Cornelius and Medorum Crawford, being each severally, duly sworn, say and each for himself says, that I will faithfully and honestly discharge the duties of Director of the Oregon Central Railroad Company to the best of my ability, so help me God.

" (Signed) T. R. Cornelius M. Crawford.

" Subscribed and Sworn to before me this 11th day of June, A. D. 1879. (Signed) P. SCHULZE,

" (Seal) Notary Public."

The Secretary called the meeting to order and announced the business in order to be the election of officers of the Board, that the election of a chairman to preside until a President was elected, would be proceeded with.

Mr. Koehler nominated T. R. Cornelius for Chairman. No other nomination was made, and on the vote being taken, Mr. Cornelius was declared unanimously elected Chairman.

The chair announced the election of a President to be first in order.

Mr. Koehler nominated Mr. Cornelius for President, seconded by Mr. Chadwick. No other nomination

was made, and on the vote being taken, Mr. Cornelius was declared unanimously elected President and took the chair.

The President announced the election of Vice President as next in order. Mr. Koehler nominated J. N. Dolph for Vice President, seconded by Mr. Crawford, and no other nominations being offered, the election was proceeded with and Mr. Dolph declared unanimously elected Vice President.

The next in order being the election of Secretary and Treasurer, Mr. Koehler nominated A. G. Cunningham for Secretary and Treasurer, seconded by Mr. Lewis, and no other nominations being offered the election was proceeded with and A. G. Cunningham was declared unanimously elected Secretary and Treasurer.

The Board being now fully organized by the election of

T. R. CORNELIUS, President

J. N. DOLPH, Vice President

A. G. CUNNINGHAM, Secretary and Treasurer.

The President stated that the Board was now organized and ready for the consideration of such business as might be presented.

No business being offered, on motion of Mr. Koehler, seconded by Mr. Lewis, the Board adjourned without day.

T. R. CORNELIUS, President.

A. G. CUNNINGHAM, Secretary.

Office of the
Oregon Central Railroad Company.

Portland, Oregon Wednesday July 9th, 1879.

No meeting of the Board of Directors had this day.

A. G. CUNNINGHAM, Secretary.

Office of the
Oregon Central Railroad Co.

Portland Oregon Wednesday Aug. 13th, 1879.

No meeting of the Board of Directors had this day.

A. G. CUNNINGHAM, Secy.

Office of the Oregon Central Railroad Co.

Portland Oregon Sept. 1st 1879.

Pursuant to notice to each director in the State the Board met at 11:30 o'clock A. M. this day. Members present.

R. Koehler
S. F. Chadwick
T. R. Cornelius
J. N. Dolph
M. Crawford
C. H. Lewis—6.

Members absent: Henry Villard—1.

The President, T. R. Cornelius, took the chair and called the meeting to order. The Secretary stated that there were six members present being the full board, except Mr. Villard, absent from the State. The President then announced the board ready for business.

Mr. Dolph then read for the information of the

Board the following indenture proposed to be entered into between this Company and the Western Oregon Railroad Company.

I N D E N T U R E

THIS INDENTURE Made this first day of September in the year of our Lord One Thousand Eight Hundred and Seventy Nine between the *Oregon Central Railroad Company* of Portland in Oregon a railroad corporation duly organized under the laws of Oregon hereinafter called the lessor of the one part and the *Western Oregon Railroad Company* of the same place a like corporation hereinafter called the *lessee* of of the other part.

WITNESSETH: That in consideration of the covenants herein contained on the part of the said lessee, the said lessor doth hereby lease, demise and let unto the said lessee all its railroad from Portland in Multnomah County to St. Joseph, in Yamhill County in Oregon being about fifty miles in length, together with all the engines, cars, rolling stock, stations, depots, depot grounds, machine shops, tools, coal supplies, and all other equipment and appurtenances thereof and all other property of every kind and description of said lessor, except its corporate accounts, records, and papers, and except the lands granted to it by the United States.

TO HOLD the same to the said lessee for the term of six months from the first day of September 1879 and so on from half year to half year subject nevertheless

to the proviso for determination of this lease by Notice in writing by either party hereinafter contained, the said lessee paying therefor the half yearly rent of Ten Thousand Five Hundred dollars in gold coin on the last day of each six months from said first day of September.

AND the said lessor for the consideration aforesaid covenants and agrees with the lessee its successors and assigns to forthwith proceed with and within a reasonable time to complete the extension of its present depot at Portland now in course of construction as the same has been already designed and is shown by a map or plan thereof now in its office at Portland and also to erect within a reasonable time a round house sufficient for four stands of engines upon the river lot at Portland belonging to said lessor situate below the Oregon Steam Navigation Company's boneyard and also to macadamize and otherwise improve that portion of Fourth Street in the City of Portland which said lessor is required by the ordinance granting to it the right of way in said Street to improve whenever required so to do by the said city and also within a like reasonable time to relay the track of its road upon said Fourth Street with steel rails all at the expense of the lessor.

AND the said lessee for itself and its successors and assigns doth hereby covenant with the said lessor its successors and assigns to pay the said rent in half yearly payments of Ten Thousand Five Hundred dollars each, the first payment thereof to be made on the first day of March next, and that it will operate said railroad and

rolling stock in a proper and prudent manner, that it will quit and deliver up the said railroad, rolling stock, equipment and premises to the said lessor its successors or assigns therein peaceably and quietly at the end of the term hereby created in as good order and condition as the same now are, natural wear and tear and acts of God and of public enemies only excepted, and it shall be lawful for the said lessor its directors, officers and agents and those having its estate in the premises at all reasonable times to enter into and upon the same to examine the conditions thereof.

AND further, that said lessee will keep said railroad, rolling stock and equipment in as good repair as the same now is, natural wear and tear, acts of God and of public enemies excepted, and will pay all taxes and assessments hereafter levied upon said premises during the continuance of this lease, and will further pay the half yearly sum of Fifty dollars as salary to the President of the lessor Company and the half yearly sum of fifty dollars as salary to the Secretary thereof, and all fees payable to the directors of said company for their meetings and all reasonable expenses for stationery, office expenses or clerical services necessary and proper for transacting the business of said Oregon Central Corporation.

PROVIDED always and these presents are upon the express conditions that if the said rent shall be in arrear for the space of thirty days or the said lessee or its successors or assigns do or shall neglect or fail to perform and observe any of the covenants on the part

of the lessee hereinbefore contained, then and in either of the said cases the said lessor its successors or assigns may immediately or at any time thereafter and while such neglect or default continues and without further notice or demand enter into and upon said premises or any part thereof in the name of the whole, and repossess the same as of its former Estate and expel the said lessee its successors or assigns or those claiming under it, and remove its officers, agents, servants, rolling stock and effects (forcibly if necessary) without being taken or deemed guilty in any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenant.

PROVIDED further and these presents are upon the express condition that either of the said parties may determine this lease at the end of any calendar month by thirty days previous notice in writing to the other party or to its President, Vice President, or Secretary, and in case such determination of the term hereby created shall be made during any half yearly period as above provided a proportionate part of the rent hereby reserved and of the other payments hereby stipulated to be made by the lessee shall become payable on the last day of each calendar month.

IN WITNESS WHEREOF the said parties have by resolutions of their respective Boards of Directors passed on the first day of September 1879 caused these presents in duplicate to be respectively sealed with their Corporate seals signed by their Presidents, attested by their Secretaries on the day and year first above written.

Mr. Dolph then offered the following resolution.

RESOLVED That the President and Secretary of this Company be and they hereby are authorized and directed to execute in the name of and on behalf of this Company, and under their official signatures and the Corporate Seal of this Company a contract now submitted as read to the board and spread upon the Journal of Minutes in the proceedings had by the Directors at this Meeting, between this Company and the Western Oregon Railroad Company, seconded by Mr. Koehler and unanimously passed and declared adopted by the President.

After stating to the board the necessity for a modification of the contract between this Company and the Oregon Transfer Company for the handling of freight from and to the depots of this Company by Mr. Koehler, Mr. Chadwick offered the following resolution.

RESOLVED, That the President and Secretary of this Company be and they are hereby authorized and directed to execute in the name of and on behalf of this Company under their official signatures and the Corporate seal of this Company a contract now submitted to the board with the Oregon Transfer Company a corporation under the laws of Oregon of which contract the following is a copy, to wit:

THIS AGREEMENT Made and entered into at Portland, Oregon, thisday of..... A. D. One Thousand Eight Hundred and Seventy Nine between the Oregon Transfer Company a corporation duly

incorporated and organized under the General Corporation laws of the State of Oregon and having its principal office and place of business at Portland, Oregon, party of the first part, and the Oregon Central Railroad Company a corporation duly incorporated and organized under the said laws of the State of Oregon and having its principal office and place of business at the said City of Portland, party of the second part.

WITNESSETH: That in consideration of one dollar paid by each to the other of the parties to this agreement the receipt whereof is hereby acknowledged and of the mutual agreements of the parties hereinafter contained, and the mutual benefits resulting and to result to the parties of this agreement under this agreement, it is now covenanted and agreed by and between the said parties of the first and second parts hereto as follows:

FIRST The said Oregon Transfer Company party of the first part herein for itself, its successors and assigns does in consideration aforesaid covenant and agree to and with the said Oregon Central Railroad Company, its successors and assigns, that it the said Oregon Transfer Company and its successors and assigns will for the period and term of ten years next immediately following after the date of these presents furnish all drays, traces, horses or mules and drivers and other persons necessary from time to time to take and shall and will operate the same and take transfer and convey to and from the depots, stations and warehouses of the said Oregon Central Railroad Company in the said City of Portland all

freight coming either way over the said Oregon Central Railroad to and from any and all points in the said City of Portland in the State of Oregon and will during the said term of ten years carry transport and convey all such freight passing over said railroad either way, that is to say: all freight coming from the south over said railroad to any point within said city of Portland to which the same is consigned or at which it is to be delivered, and all freight to be shipped south over said road from any point within said city to the said depots, stations and warehouses as the Railroad Company may request with promptness and dispatch and without unreasonable delay and so as to keep the depots, stations and warehouses clear from freight.

SECOND. In consideration whereof the said Oregon Central Railroad Company party of the second part herein for itself, its successors and assigns covenants and agrees to and with the said Oregon Transfer Company, party of the first part herein that it, the said the Oregon Transfer Company, party of the first part herein, its successors and assigns shall for and during the said term of ten years after the date of this agreement have the sole and exclusive right and privilege of conveying and transporting from said depots, stations and warehouses of the said the Oregon Central Railroad Company party of the second part all freight of every description coming over the railroad of the said Oregon Central Railroad Company its successors and assigns to such point or place within the City of Portland to which said freight may be directed or consigned or at which

it is to be delivered, and the sole and exclusive privilege and right of conveying and transporting to said depots, stations and warehouses from any point or place within said City of Portland all freight of every description that may during said term of ten years go from said City of Portland to said depots, stations or warehouses or that may during said time go or be forwarded southward over said railroad from any point within said City, and the said Oregon Central Railroad Company party of the second part in further consideration of the covenants and agreements aforesaid to be by the said party of the first part kept and performed for itself, its successors and assigns covenants and agrees to and with the said party of the first part its successors and assigns that it the said party of the second part its successors and assigns shall and will during said term of ten years next ensuing after the date of this agreement pay or cause to be paid monthly at the end of each and every month during said period of ten years in United States gold coin so long as the business of said party of the second part shall continue to be conducted upon a coin basis but should at any time during said period the business of the party of the second part be conducted upon a currency basis and freight and fares received in currency then and in that case in currency to said Oregon Transfer Company party of the first part or its successors or assigns the following sums and rates for all freight transported over said railroad of the party of the second part coming to or passing through the City of Portland and upon all freight shipped from

the said City of Portland transported south over said road, to wit: Fifty cents per ton for all such freight except wool, stone and lumber and on all wool One dollar per ton and on all lumber One dollar per thousand and on all stone One dollar per ton, and on all machinery, safes and other like heavy freight what the transfer thereof is reasonably worth for the distance transferred, taking as a basis for such compensation the prices per ton herein definitely fixed for other freight for like distances, and for all freight received at any or all of said Depots, in said City of Portland not actually hauled by the said Oregon Transfer Company the said the Oregon Central Railroad Company party of the second part shall pay to the said Oregon Transfer Company party of the first part the sum of Twenty five cents per ton as aforesaid, provided however that if the aggregate amount to be paid to the said the Oregon Transfer Company under the last provision or upon such freight not actually hauled by the said the Oregon Transfer Company during any one year of said term of ten years from the date hereof shall not amount to the sum of three thousand dollars then and in that case the said Oregon Central Railroad Company party of the second part shall pay such additional sum to the party of the first part as shall make the amount paid upon such freight not actually hauled by the said the Oregon Transfer Company the said sum of Three Thousand Dollars, but in no case shall the amount for freight not hauled exceed Fifty cents per ton nor the amount of Three Thousand Dollars, and the said the

Oregon Transfer Company party of the first part agrees to pay to the said Oregon Central Railroad Company the party of the second part the sum of six and one quarter cents per ton for handling all freight not actually handled or hauled by the said the Oregon Transfer Company but exclusively handled by the said the Oregon Central Railroad Company provided said frt has been paid for by the said Oregon Central Railroad Company at the rate of twenty five cents per ton or at a rate of from twenty five to Fifty Cents per ton to the said Oregon Transfer Company. Provided that nothing shall be paid to said party of the first part by the party of the second part for any such freight for which drayage or compensation for handling or hauling has been paid by either the Oregon and California Railroad Company or the Oregon Steam Ship Company Corporations under the laws of Oregon to said party of the first part where such freight requires but one haul.

It is further expressly understood, covenanted and agreed by and between the parties hereto

FIRST—That if the said Oregon Transfer Company party of the first part shall at any time during said term of ten years fail or neglect to furnish all drays, trucks horses or mules, drivers and persons necessary to carry and transport all freight as hereinbefore specified to and from the stations, depots and warehouses of said Oregon Central Railroad Company party of the second part and to convey and transport the same as fast as the business of said Company may require so

as to keep such depots and Warehouses clear of freight arriving by said road that then and in that case said Oregon Central Railroad Company its successors or assigns may have such freight for the time being and during such neglect or failure of the party of the first part carried, transported and delivered by any other corporation, firm, person or persons upon such terms and for such reasonable compensation as shall be by the party of the second part deemed necessary to pay therefor and for all such freight so conveyed and transported said party of the first part shall receive no compensation, and whatever sum so necessarily paid to such corporation, firm, person or persons for such services over and above the contract price herein provided shall be charged to said party of the first part and deducted out of the monthly payment to said party of the first part herein provided for for the month in which said payment was made.

SECOND That should the said party of the first part the said Oregon Transfer Company at any time during said term of ten years from the date of this contract wilfully refuse, neglect or fail for the period of thirty days to furnish the transportation hereinbefore provided, or to convey, transport and deliver all freight hereinbefore specified and as hereinbefore provided, then and in that case the said party of the second part may at its option declare this agreement forfeited and may by notice to the party of the first part terminate the same and shall thereupon be fully and absolutely relieved from all obligation thereunder, and

may make other provision for the performance of the services agreed to be by the party of the first part performed under this contract.

THIRD That in case of any failure on the part of said party of the first part to keep and perform any of its covenants and agreements herein, and in consequence of such failure any goods which should have been delivered by the party of the first part under this agreement to the consignees or at any point or place within the City of Portland, or any freight delivered at depots or stations of said parties of the second part within the said City of Portland for shipment which might and would have been shipped before its loss except for such wilful neglect and failure of the party of the first part, shall be lost by fire, explosion, flood, theft, robbery, or any other cause whatever to the loss or damage of the said party of the second part, without any fault or negligence of the said party of the second part its agents or employees then in that case said party of the first part shall repay all such loss, damages, costs and disbursements as shall be sustained thereby by said party of the second part and which it shall be compelled to pay by any action, suit or proceeding or shall pay without action, suit or legal proceeding upon compromise or otherwise by consent of the party of the first part. This contract shall take the place of all previous contracts between the parties hereto concerning the subject matter hereof.

IN TESTIMONY WHEREOF the parties of these presents the Oregon Transfer Company and the

Oregon Central Railroad Company by resolutions of their respective Boards of Directors have caused these presents to be signed by their respective Presidents and Secretaries and their corporate seals to be hereto affixed at the City of Portland, Oregon, this First day of September A. D. 1879.

Seconded by Mr. Lewis and passed and was declared unanimously adopted by the President.

On motion of Mr. Dolph, seconded by Mr. Crawford the Board adjourned.

A. G. CUNNINGHAM,

Secy.

T. R. CORNELIUS,

President.

Office of the

Oregon Central R R Co.

Portland Ogn. Wednesday, Sept. 10th 1879.

No meeting of the Directors had this day.

A. G. CUNNINGHAM, Secy.

Office of the

Oregon Central R R Co.

Portland Oregon Wednesday Oct 8th 1879.

No meeting of the Directors had this day.

A. G. CUNNINGHAM, Secy.

Office of the

Oregon Central R R Co.

Portland Oregon Wednesday Nov 12th 1879
No meeting of the Directors had this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central R R Co.

Portland Oregon Wednesday Dec. 10th 1879
No quorum present, and no meeting had this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Co.

Wednesday Jany. 14th 1880
No meeting of the Board this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Co.

Portland Ogn Wednesday Feby. 11th 1880.
No meeting of the Board of Directors this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Co.

Portland Ogn Wednesday Mch 10th 1880.
No meeting of the Board of Directors had this day.
No business requiring action of the board.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central R R Co.

Portland Oregon Wednesday April 14th 1880.

The Board of Directors did not hold a meeting this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central R R Co.

Portland Oregon May 12th 1880.

The Board of Directors did not assemble for business this day.

A. G. CUNNINGHAM, Secy.

S T O C K H O L D E R S
A N N U A L M E E T I N G 1880.

Office of the
Oregon Central R. R. Co.

Portland, Oregon, Thursday May 27th 1880.

Pursuant to notice in accordance with the By-Laws, and in accordance with the By-Laws of this Company, the Stockholders met at 11:30 o'clock A. M.

The President, T. R. Cornelius, took the chair and called the meeting to order.

The Secretary submitting a certificate of the stockholders as shown by the books of the Company on this day, and certifying that no transfers had been made within the preceding ten days.

The President directed the Secretary to read the list of stockholders, from said certificate and note the stock represented present. The call was proceeded with and the following responded present.

T. R. Cornelius.....	5	shares
Medorum Crawford.....	1	"
S. F. Chadwick.....	1	"
J. N. Dolph.....	1	"
Richard Koehler by J. N. Dolph Proxy.....	1	"
Richard Koehler Trustee by J. N. Dolph, Proxy....	49054 $\frac{5}{8}$	"
Henry Villard.....	1	"
<hr/>		
Total	49064 $\frac{5}{8}$	shares

On motion of Mr. Dolph seconded by Mr. Crawford the Secretary read the proceedings of the last annual Stockholders Meeting.

Mr. Dolph moved that the record stand approved, seconded by Mr. Chadwick and passed.

There being a majority of the stock represented Mr. Dolph moved that the election for Seven Directors to serve for the ensuing Twelve Months be entered into, seconded by Mr. Crawford and passed.

The President appointed Mr. Crawford teller, and on the vote being canvassed the following stockholders was found to each have received 49064 $\frac{5}{8}$ votes.

T. R. Cornelius

Henry Villard

J. N. Dolph

C. H. Lewis

S. F. Chadwick

Richard Koehler

Medorum Crawford

The President declared them duly elected Directors and executed the following certificate of such election.

State of Oregon)
	) ss.
County of Multnomah)

I, T. R. Cornelius, President of the Oregon Central Railroad Company, do hereby certify that at the annual stockholders meeting of said Company held at the office of the Company in Portland, Oregon at 11:30 o'clock A. M. of Thursday May 27th 1880, in pursuance of the By-Laws of the Company, and of notice duly given, the following named persons, stockholders of the Company, were duly elected Directors of said Company for the ensuing year.

Henry Villard

T. R. Cornelius

J. N. Dolph

C. H. Lewis

Richard Koehler

S. F. Chadwick

and Medorum Crawford, each having received a majority of all the votes represented and voted at said meeting, being a majority of the Capital Stock of said Company.

May 27th, 1880. (Signed) T. R. Cornelius, President.

On motion of Mr. Dolph, seconded by Mr. Chadwick, the meeting adjourned without day.

A. G. CUNNINGHAM, Sy.

Office of the
Oregon Central Railroad Co.

Portland Oregon May 27th, 1880.

Pursuant to call and notice to each Director in the State, the board met at 1 o'clock P. M. this day. Members present

Henry Villard	T. R. Cornelius	
C. H. Lewis	M. Crawford	
S. F. Chadwick	J. N. Dolph	6.
Absent	Richard Koehler	1

This is a meeting of the old board, the newly elected board not having qualified as Directors.

The following communication was read to the board by the secretary.

Portland, Oregon, May 24th 1880

To the Board of Directors of the Oregon Central Railroad Company. Gentlemen: I hereby resign my position as Trustee of the Mortgage of the road and land grant of the Oregon Central Railroad Company, dated July 15, 1871 to secure the Mortgage Bonds issued by said Company. Respectfully yours,

(Signed) H. VILLARD.

On motion of Mr. Dolph, seconded by Mr. Crawford, H. Villard's resignation was accepted.

Mr. Dolph offered the following preamble and Resolutions.

WHEREAS, Henry Villard Esq has filed with this Company his resignation as Trustee of a certain In-

denture of Mortgage dated 15th day of July 1871 and made between this Company of the first part and Milton S. Latham of San Francisco in California and Faxon D. Atherton formerly also of San Francisco in California, parties of the second part and recorded in the office of the County Clerk of Multnomah County in the State of Oregon, whereby the Railroad of this Company and all and singular the property of every description of this Company then owned by it or thereafter to be acquired and owned by it were granted and conveyed by this Company to said Milton S. Latham and Faxon D. Atherton upon trust therein set forth to secure the payment of an issue of negotiable bonds of said Railroad Company to the amount of \$4,395,000, payable in twenty years after date with interest thereon in the meantime at Seven per centum per annum at the time and in manner therein mentioned to which position of trustee in said indenture said Henry Villard was appointed in place of said Faxon D. Atherton deceased.

AND said resignation of said Henry Villard having been accepted by the Board of Directors of the Oregon Central Railroad Company.

RESOLVED that Richard Koehler of the City of Portland in the State of Oregon be and he is hereby nominated by this Company as trustee of said Indenture in place of said Henry Villard resigned, and whereas it has been agreed and arranged between said Henrich Hohenemser sole remaining trustee of said Indenture of the first part and Richard Koehler party of the third

part that said Richard Koehler shall be appointed trustee in place of said Henry Villard resigned.

AND WHEREAS, it was in and by said indenture provided and agreed that in case of the death, resignation incapacity to act or inability of either or any or either of said parties of the second part thereto to act in the execution of any of the trusts thereof then it should be lawful and the remaining acting survivors or Competent Trustee and the President for the time being of said Oregon Central Railroad Company party of the first part thereto were thereby authorized to select and appoint by instrument in writing under their hands and seals which should be recorded in the same office in which said Indenture should be recorded one or more Competent persons to fill the vacancy or vacancies so created in the manner aforesaid.

RESOLVED, That the President of this Company be and he is hereby authorized in pursuance of the authority aforesaid to execute an instrument in conjunction with said Henrich Hohenemser sole remaining trustee of said Indenture appointing said Richard Koehler to be trustee of said Indenture in place of Henry Villard resigned, a copy of which Indenture of appointment is in words and figures, as follows, to wit:

THIS INDENTURE Made this day of
1880 between Henry Villard of the City of New York of the first part Heinrich Hohenemser of Frankfort on the Main in the empire of Germany of the second part, T. R. Cornelius President of the Oregon Central Rail-

road Company, a corporation duly organized under the laws of Oregon of the third part, and Richard Koehler of the City of Portland in the State of Oregon of the fourth part.

WHEREAS, by an Indenture of Mortgage dated the 15th day of July 1871 and made between said Oregon Central Railroad Company of the first part, and Milton S. Latham and Faxon D. Atherton, then residents of the City of San Francisco in the State of California, of the second part, and recorded in the office of the County Clerk of Multnomah County at Portland, in Oregon, the rail road and land grant of said Oregon Central Railroad Company and all and singular the property of every description of said Oregon Central Railroad Company then owned by it or thereafter to be acquired and owned by it, were granted and conveyed by said Oregon Central Railroad Company to said Milton S. Latham and Faxon D. Atherton upon trusts therein set forth, to secure the payment of an issue of negotiable bonds of said Railroad Company to the amount of Four Million Three Hundred and Ninety five Thousand (\$4,395,000) Dollars payable in twenty years after date with interest thereon in the meantime at seven per centum per annum at the times and in the manner therein mentioned, and it was by said Indenture further provided and agreed that in case of the death, resignation, incapacity to act, or inability of any or either of said parties of the second part thereto to act in the execution of any of the trusts thereof, then it should be lawful and the remaining acting, surviving, or Com-

petent Trustees or Trustee and the President for the time being of said Oregon Central Railroad Company, party of the first part thereto were thereby empowered to select and appoint by an instrument in writing under their hands and seals, which should be recorded in the same offices in which the said Indenture now in recital should be recorded, one or more competent persons to fill the vacancy or vacancies so created in the manner aforesaid, and that such persons so appointed trustee or trustees should have, and possess and be vested with, the same rights and powers as a Trustee or Trustees, as he or they would have had and possessed or been vested with had he or they originally been made a party or parties of the second part to the Indenture now in recital, and should perform the same duties in all respects.

AND WHEREAS, the said Faxon D. Atherton died on the 17th day of July 1877, and by an Indenture dated 20th day of March 1878 said Henry Villard was duly appointed Trustee in his stead, AND WHEREAS said Milton S. Latham did on the first day of May, A. D. 1879, resign his trusteeship, and by an Indenture dated the 2nd day of June 1879 said Heinrich Hohenemser was duly appointed trustee in his stead, AND WHEREAS said Henry Villard resigned his Trusteeship as aforesaid by an instrument in writing dated the 24th day of May A. D. 1880, and such resignation was by resolution of the Board of Directors of the said Oregon Central Railroad Company passed on the 27th day of May, A. D. 1880, duly accepted; and said Heinrich Hohenemser is the sole surviving and act-

ing trustee of said Indenture of Mortgage above recited,

AND WHEREAS, it has been arranged and agreed between the parties hereto that said Richard Koehler should be appointed Trustee of said Indenture of Mortgage of July 15th, 1871, in the place of said Henry Villard resigned,

AND WHEREAS, the execution of this Indenture by the said party of the third part has been authorized by resolution of the Board of Directors of said Oregon Central Railroad Company duly passed the 27th day of May, A. D. 1880,

NOW THIS INDENTURE WITNESSETH, That said Heinrich Hohenemser, as acting and remaining Trustee of said Indenture of Mortgage of July 15th 1871, and said T. R. Cornelius as President of said Oregon Central Railroad Company, do hereby select and appoint said Richard Koehler as Trustee of said Indenture of Mortgage of July 15th, 1871, in the place of said Henry Villard; and said Richard Koehler doth hereby accept such appointment and the trusts and duties thereof.

AND, in further pursuance of said agreement, said Henry Villard and Heinrich Hohenemser do, and each of them doth hereby, grant and convey unto said Richard Koehler and Heinrich Hohenemser, their heirs, executors, administrators and assigns, all and singular the railroad and land grants, property, and premises comprised in or conveyed, or assured by or which is now subject to the trusts and provisions of said Indenture

of Mortgage of July 15th 1871.

TO HOLD THE SAME unto and to the use of said Richard Koehler and Heinrich Hohenemser, their heirs, executors, administrators, and assigns, as joint tenants and not as tenants in common, but upon the trusts, and with the powers, and subject to all the provisions and stipulations of said Indenture of Mortgage of July 15th, 1871.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

After the reading Mr. Chadwick moved its adoption, was seconded by Mr. Crawford, and upon the vote being taken, the President declared unanimously adopted.

No further business being before the board, on motion of Mr. Dolph seconded by Mr. Lewis, the board adjourned without day.

A. G. CUNNINGHAM,

Secy.

T. R. CORNELIUS,

President.

Office of the

Oregon Central R. R. Co.,

Portland Ogn Wednesday June 9th 1880.

No meeting of the Board of Directors was had this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Co.

Portland Oregon June 28th, 1880.

Pursuant to call and notice to each Member the New Board met at 4 o'clock P. M. Members present.

T. R. Cornelius

S. F. Chadwick

R. Koehler

M. Crawford

C. H. Lewis

J. N. Dolph

6

Mr. Villard having transferred the stock standing in his name, thereby becoming ineligible as a director, did not qualify, the other directors elected by the stockholders on 27th May 1880, qualified by taking and subscribing the following oath.

“State of Oregon)
) ss.
“County of Multnomah)

“ We, T. R. Cornelius, S. F. Chadwick, Medorum
“Crawford, J. N. Dolph, and C. H. Lewis, being each
“severally and duly sworn, say, and each for himself
“says, that he will faithfully and honestly discharge the
“duties of Director of the Oregon Central Railroad
“Company, a corporation duly incorporated under the
“laws of Oregon, to the best of my ability, so help me
“God.

“ (Signed) T. R. CORNELIUS
“ M. CRAWFORD

“ J. N. DOLPH

“ S. F. CHADWICK

“ C. H. LEWIS

“Sworn and subscribed to before me this 27th day of
“May A. D. 1880.

“ Seal) (Signed) P. Schulze Notary Public.

The same oath sworn and subscribed to by Richard
Koehler.

(Signed) R. KOEHLER.

Sworn and subscribed to before me this 28th day of
June A. D. 1880.

(Seal) (Signed) I. R. Moores, Notary Public.

The Secretary called the Board to order and stated the first business for the consideration of the Meeting was the election of a chairman to preside until a President should be elected. Mr. Koehler nominated Mr. Cornelius for chairman, which was seconded by Mr. Dolph and Mr. Cornelius was unanimously elected Chairman.

The Chair then announced the election of a President to serve for the ensuing 12 months as in order.

Mr. Koehler nominated Mr. T. R. Cornelius for President, seconded by P. Schulze, and upon the vote being taken Mr. Cornelius was declared to be unanimously elected President, and

The President took the chair and announced the election of a Vice President as next in order.

Mr. Koehler nominated J. N. Dolph for Vice Presi-

dent, seconded by Mr. Chadwick and canvassing the vote Mr. Dolph was declared unanimously elected Vice President.

Mr. Koehler then nominated A. G. Cunningham for Secretary and Treasurer, seconded by Mr. Lewis and on the vote being taken was declared duly elected Secretary and Treasurer.

The Board being now organized, the Secretary read the following communication to the board.

Office of the
Oregon Central Railroad Co.,
Portland Oregon May 27th 1880.

To the President and Directors of the Oregon Central Railroad Co., Portland, Oregon. Gentlemen: I hereby tender my resignation as Director of your Company to take effect from and after the election and qualification of my successor.

(Signed) Respectfully, H. VILLARD.

On motion of Mr. Koehler seconded by Mr. Lewis the resignation of Mr. Villard was accepted.

The President announced that it would be in order for the Board to elect a Stockholder of this Company to fill the vacancy in the Board.

Mr. Koehler nominated Mr. C. A. Dolph for Director to fill said vacancy, seconded by Mr. Lewis, and on canvassing the vote Mr. Dolph was declared duly elected such Director.

Mr. Dolph then filed his qualification in words and figures following.

“State of Oregon)
) ss.
“County of Multnomah)

“ We, Richard Koehler and C. A. Dolph being each
“severally and duly sworn, say, and each for himself
“says, that he will faithfully and honestly discharge the
“duties of Director of the Oregon Central Railroad
“Company, a corporation duly Incorporated under the
“laws of Oregon, to the best of my ability, so help me
“God.

“ (Signed) R. KOEHLER, C. A. DOLPH.
Sworn and subscribed to before me this 28th day of
June, A. D., 1880.

(Signed) I. R. Moores, Notary Public.

No other business being before the board, Mr.
Koehler moved to adjourn, Mr. Lewis seconded the
motion, on the vote being taken the President declared
the meeting adjourned without day.

A. G. CUNNINGHAM, Secy.

T. R. CORNELIUS, President.

Office of the

Oregon Central R. R. Co.

Portland Oregon Wednesday July 14th 1880.

No meeting of the Board this day.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Co
Portland Oregon Wednesday Aug 11th 1880
No meeting of the Board had this day.
A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central Railroad Company
Portland Oregon Wednesday Sept 8th 1880
In pursuance of notice and in accordance with the
By-Laws, the board met at 11 o'clock A. M. Members
present.

T. R. Cornelius
J. N. Dolph
C. A. Dolph
C. H. Lewis
R. Koehler
Medorum Crawford

and S. F. Chadwick. 7.

T. R. Cornelius, President, called the meeting to
order.

Mr. Koehler read the following for the information
of the board.

Portland, Or. Sept. 7th 1880.

To the Board of Directors of the Oregon Central Railroad Co., Portland. Gentlemen: I have the honor to lay before you the following statement in regard to certain work performed for this Company's railroad and to request your approval of my action.

In accordance with the terms of the lease of this Company's Railroad to the Western Oregon Railroad Co. we were required to complete at our own expense the extension of our depot in this City, also to erect a round house with 4 Engine stands, and suitable machinery as used for repairing rolling stock, we were also required to relay with new steel rails a certain part of main track on 4th Street in this City and to improve by macadamizing a part of said 4th Street.

In order to carry out the work as above indicated and without any available funds on hand, I had to resort to the credit of the Company and succeeded in making an agreement with the President of the Northwestern Construction Company according to the terms of which said Company undertook to perform such work and to Charge at the completion, cost price only, the O. C. R. R. Co. in return and as part consideration to furnish to said Northwestern Construction Company such motive power and rolling stock as could be spared and to allow the use of our road for the transportation of material intended for the construction of the W. O. R. R. Co; said N. W. Cons't Co to pay of course all salaries and wages of our employes engaged in running construction trains, and also all expenses for keeping motive power and rolling stock in repair, as a further consideration the N. W. C. Co. agreed to exclusively ship by our road such material used in the construction of the W. O. R. R. as might not be hauled by the construction trains, and to pay for all such hauling on our own trains the regular freight charges.

Amount of such transportation charges to be credited to us and deducted from the amount due by us for work performed for our Company by said N. W. C. Co.

Believing this agreement to be favorable for our Company I respectfully ask you to approve of and ratify the same and to grant the request now made by the N. W. C. Co. to execute our due bill, bearing interest at one per cent per month from first day of September 1880 in settlement of their claim.

For the purpose of your information, I submit herewith itemized statements to which I give the following explanations to wit:

1/ The account "O C Depot Extension" embraces

a/ The construction of 2 new side tracks on our depot grounds and east of our depot building, which tracks were mostly to be built on trestle work, the raising of the old tracks and of the depot building to a uniform and proper height, making necessary repairs on said depot building, providing new and additional doors for the same and painting the outside of the building, plank-ing of the principal part of depot grounds and furnishing and setting up a 30 ton track scale.

b/ The Construction of a round house upon the river lot belonging to this Company immediately below the O. R. & B. Co's property called "the old bone yard," with 4 stands for engines and space for machinery, also the furnishing and setting up of the following machinery to wit: 1 axle lathe, 1 bolt cutter, 1 vertical drill, and 1 plainer selected by me.

The account presented shows an amount
expended of\$13,584.22

In addition the N. W. C. Co. by agreement
paid Sept. 7th for work not completed and
now to be completed by us the amount of 250.00

which will cover all expenses to be still in-
curred in setting up the machinery and in
bringing it into working order. Total of
this act.\$13,834.22

2/ The account 4th Street improvement em-
braces the cost of material principally of steel
rails and fastenings and ballast and the ex-
pense for labor for relaying the track and
macadamizing the Street, showing an ex-
penditure of 7,059.70

Total of both accounts.....\$20,893.92

For freight transported by our trains on
account of the N. W. C. Co. we received a
credit amounting to.....`7,887.40

Leaving a balance due by our Company..\$13,006.52
for which amount a note is asked. Very respectfully
yours,

(Signed) J. BRANDT, Supt.

Mr. Koehler then offered the following resolution.

RESOLVED That the contracts between this Com-
pany and the Northwestern Construction Company
made on behalf of this Company by the Superintendent

of this Company as set forth in his communication this day submitted by said Superintendent to this board be and the same are hereby ratified and approved.

RESOLVED That the President and Secretary of this Company be and they are hereby authorized and directed to adjust and settle the several matters and accounts in said communication mentioned upon the basis of said contracts and to execute in the name of and on behalf of this Company under their official signatures and the corporate seal of this Company the promissory note or notes of this Company, to the said Northwestern Construction Company for the balance found due said Construction Company.

Seconded by C. A. Dolph and passed, the President declared it unanimously adopted.

The Secretary then read the following communication from the President of the Oregon and California Railroad Company.

“ Office of the
“ Oregon and California Railroad Company
“ Portland Or. Sept. 8th, 1880.

“To the President and Board of Directors of the Oregon Central Railroad Company. Gentlemen I have the honor to submit to you on behalf of the Oregon and California Railroad Company, a corporation duly incorporated and existing under the laws of Oregon, a proposition for the purchase by said Oregon and California Railroad Company of all the property, real,

“personal and mixed of your Company, the Oregon Central Railroad Company, at the price and consideration of the payment by the said Oregon and California Railroad Company of the bonded debt of the said Oregon Central Railroad Company its debt to said Oregon and California Railroad Company not bonded and its floating indebtedness, understood by said Oregon and California Railroad Company to be in amount as follows:

“ Amount due on the promissory notes of your Company now outstanding and unpaid, one executed Feby. 9th, 1872 to Ben Holladay, President for \$500,000, with interest at 10 per cent per annum, and one note for \$500,000, executed by your Company Aug. 29th, 1872 to Ben Holladay, President drawing ten (10) per cent interest, and for the payment of which all the first mortgage bonds of your Company are pledged, the interest being computed at five per cent only from and after the execution of the agreement of April 6th, 1876 between Milton S. Latham, agent and Henry Villard agent; amount due upon the second Mortgage Bonds of your Company, Principal \$300,000, with interest;

“ This Company however reserving the right to pay and satisfy the interest and principal of any of said second Mortgage Bonds only at maturity, and should said bonded or secured indebtedness by any different computation of interest be found to be greater than above estimated, this Company to assume pay and satisfy the same nevertheless, and should the same

“be found to be less in amount, this Company not to
 “be required to pay any greater sum for said property.

“ Amount due on account with Oregon
 “and California Railroad Company \$120,472.02

“ Amount due on account constructions
 “and improvements 13,006.52

“ This proposition is submitted by authority of reso-
 “lution passed by the Board of Directors of the Oregon
 “and California Railroad Company at a meeting thereof,
 “held this 8th day of September 1880 at the office of the
 “Company in Portland, Oregon, of which the following
 “is a copy.

“ RESOLVED, That this Company propose to the
 “Oregon Central Railroad Company of Portland to
 “purchase all the property of said Oregon Central Rail-
 “road Company of every name and nature, real, personal
 “and mixed and as a consideration therefor to pay off
 “and satisfy the bonded debt of said Company, the debt
 “of said Company to this Company, and its floating in-
 “debtedness in amount as follows, to wit:

“ Amount due on the promissory notes of said Com-
 “pany now outstanding and unpaid, one executed Feby.
 “9th, 1872 to Ben Holladay, President for \$500,000
 “with interest at 10 per cent per annum and one note for
 “\$500,000 executed by said Company August 29th 1872
 “to Ben Holladay, President, drawing ten (10) per cent
 “interest and for the payment of which all the first Mort-
 “gage Bonds of said Company are pledged, the interest

“being computed at five per cent only from & after the
“execution of the agreement of April 6th, 1876 between
“Milton S. Latham agent and Henry Villard agent.
“Amount due upon the second Mortgage Bonds of said
“Company, Principal \$300,000, with interest.

“ This Company however reserving the right to pay
“and satisfy the interest and principal of any of said
“Second Mortgage Bonds only at maturity and should
“said bonded or secured indebtedness by any different
“computation of interest be found to be greater than
“above estimated, this company to assume pay and sat-
“isfy the same nevertheless, and should the same be
“found to be less in amount, this Company not to be
“required to pay any greater sum for said property.

“ Amount due on account with Oregon and Califor-
“nia Railroad Company, \$120,472.02.

“ Amount due on account of construction and im-
“provements, \$13,006.52.

“ **RESOLVED** That the President of this Com-
pany be and he is hereby authorized and directed to
make in the name of and on behalf of this Company
to the said Oregon Central Railroad Company a propo-
sition for the purchase of all the property of said Ore-
gon Central Railroad Company, real, personal and
mixed and to pay therefor the indebtedness of said Ore-
gon Central Railroad Company as aforesaid.

An early reply to the foregoing is desired.

Respectfully yours,

(Signed)

R. KOEHLER,

President of the Oregon and California Railroad Co.

Mr. J. N. Dolph moved that the communication just read be spread upon the Journal, seconded by Mr. Koehler and passed.

Mr. J. N. Dolph then offered the following preamble and resolutions.

WHEREAS, the railroad of this Company has now been in operation for eight years and

WHEREAS the earnings of the road have hitherto been insufficient to enable this Company to pay anything upon the principal or interest of its indebtedness incurred for its construction and

WHEREAS this Company is unable to pay its indebtedness by the earnings of its property and the proceeds of sale of its lands, and if pressed by its creditors would have long since been compelled to discontinue operations and

WHEREAS in the judgment of this board it is for the best interests of this Company that the proposition of the Oregon and California Railroad Company to purchase the property of this Company should be accepted.

RESOLVED That the said proposition of the Oregon and California Railroad Company be and the same is hereby accepted by this board subject to ratification and approval by a Stockholders Meeting of this Company to be called for that purpose.

Seconded by Mr. Koehler and passed, and declared

by the President unanimously adopted.

Mr. J. N. Dolph moved that a Committee of three be appointed to investigate the indebtedness of this Company and report to the Stockholders Meeting to called by resolution of this board and that the Secretary of this Company shall be one of such Committee, seconded by Mr. Koehler and passed.

The President then appointed Mrss. C. H. Lewis and C. A. Dolph with the Secretary of this Company as such Committee.

Mr. J. N. Dolph then offered the following resolutions.

RESOLVED That a meeting of the Stockholders of this Company be and the same is hereby called to be held at the office of this Company in the City of Portland, Oregon, on the 6th day of October, 1880, at 11 o'clock A. M. of said day for the purpose

First, To consider a proposition of the Oregon and California Railroad Company, a corporation under the laws of Oregon to purchase all the property, real, personal and mixed of this Company.

Second. To consider the propriety of and to authorize the dissolution of this Company the Oregon Central Railroad Company of Portland and the settling of its business, and the disposing of its property and the dividing of its Capital Stock.

Third. To authorize the sale and conveyance or other disposition of the Company's property and the

liquidation of its affairs.

RESOLVED, That the Secretary of this Company be and he is hereby directed to give notice of the time, place and object of such meeting of the Stockholders of this Company by publishing a notice thereof, stating the time place and object of such meeting in the *Daily Oregonian* a newspaper of general circulation printed and published in the City of Portland, Oregon, daily (Sundays excepted) for at least twenty days prior to said meeting and by mailing to each Stockholder of this Company whose Postoffice address or usual place of residence is known to the Secretary of this Company, directed to his usual place of residence, a written or printed notice thereof under his official signature and the corporate seal of this Company.

Seconded by Mr. Koehler and passed and declared by the President unanimously adopted.

No further business being before the board, Mr. J. N. Dolph moved that when this board do adjourn it be to the 6th day of October 1880 at 10:30 A. M. of said day.

Seconded by C. A. Dolph and passed. Mr. J. N. Dolph then moved that the board do now adjourn, seconded by Mr. Lewis and passed.

The President declared the board adjourned to the 6th day of October 1880 at 10:30 o'clock A. M.

T. R. CORNELIUS.

A. G. CUNNINGHAM, Secy.

Office of the
Oregon Central R. R. Co.

Portland Oregon Wednesday Oct 6th 1880.

Pursuant to adjournment the Board of Directors of this Company met at the office of the Company on this 6th day of October 1880 at 10:30 o'clock A. M.

Members present:

R. Koehler
C. A. Dolph
C. H. Lewis
M. Crawford—7.
J. N. Dolph
S. F. Chadwick
T. B. Cornelius

all the members present.

T. R. Cornelius, President, called the Board to order at 10:35 A. M.

The Secretary read the proceedings of the last meeting and no objection being made, they stand approved.

Mr. J. N. Dolph moved that the Board now take a recess until 11:30 o'clock A. M. Seconded by Mr. Koehler and adopted. The President announced a recess until 11:30 o'clock A. M.

CALLED MEETING OF THE STOCK- HOLDERS

Office of the
Oregon Central Railroad Company,
Portland Oregon Wednesday Oct 6th 1880.

Pursuant to resolutions Duly passed by the Board of Directors of this Company at a meeting thereof duly called and held at the office of this Company September 8th 1880, calling a special meeting of the Stockholders of this Company to be held at this time and place, and declaring the purpose thereof which resolutions are spread upon the records of the Minutes of said Meeting: and in pursuance of notice to the Stockholders of this Company duly given to each Stockholder as provided by the By-Laws of this Company by mailing to each Stockholder a printed notice thereof signed by the Secretary and under the corporate seal of the Company giving the time and place of this meeting and Specifying the object thereof, which notices were mailed and deposited in the Post Office at Portland, Oregon inclosed in a sealed envelope, and the package prepaid and properly addressed to each Stockholder at his place of residence, so as to be received by each Stockholder by usual course of mail more than Twenty days prior to this date, and which notices were also registered, and sent as registered packages, all of which will more fully appear by the affidavit of the Secretary of this Company, this day filed and exhibited to the Board which notice and affidavit are in words and figures as follows, to wit:

NOTICE OF STOCKHOLDERS MEETING

Office of the

Oregon Central Railroad Company

Portland Oregon September 8, 1880.

To.....

.....

.....

A Stockholder of the Oregon Central Railroad Company of Portland.

Please take notice that at a meeting of the Board of Directors of this Company duly called and held at the Company's office in the City of Portland in the State of Oregon, on the 8th day of September A. D. 1880, the following resolutions were unanimously adopted, to wit:

“ RESOLVED that a meeting of the Stockholders
 “of this Company be and the same is hereby called to
 “be held at the office of this Company in the City of
 “Portland, Oregon, on the 6th day of October, 1880
 “at 11 A. M. of said day for the purpose

“ First: To consider a proposition of the Oregon
 “and California Railroad Company a corporation under
 “the laws of Oregon to purchase all the property real,
 “personal and mixed of this Company,

“ Second: To consider the propriety of and to
 “authorize the dissolution of this Company, the Oregon
 “Central Railroad Company of Portland; and the set-
 “tling of its business; and the disposing of its property;

“and the dividing of its Capital Stock.

“ Third. To authorize the sale and conveyance or
“other disposition of the Company’s property and liqui-
“dation of its affairs.

“ Resolved, That the Secretary of this Company be
“and he is hereby directed to give notice of the time,
“place and object of such meeting of the Stockholders
“of this Company by publishing a notice thereof stating
“the time, place and object of such meeting in the Daily
“Oregonian, a newspaper of general circulation printed
“and published in the City of Portland Oregon, daily,
“Sundays excepted, for at least twenty days prior to
“said meeting and by mailing to each Stockholder of
“this Company whose Post Office address or usual place
“of residence is known to the Secretary of this Company
“directed to his usual place of residence a written or
“printed notice thereof under his official signature and
“the corporate seal of this company.

You are therefore hereby notified in pursuance and
by authority of said resolutions and in conformity to
Section 19 of Chapter 7, Title 1, of the General Laws
of Oregon; that a Special Meeting of the Stockholders
of this Company, the Oregon Central Railroad Com-
pany will be held at the office of the Company in Port-
land, Oregon, on the 6th day of October A. D. 1880 at
11 o’clock A. M. of said day.

The objects for which said meeting is called are as
follows:

First: To consider a proposition of the Oregon

and California Railroad Company a corporation under the laws of Oregon to purchase all the property, real personal and mixed of this Company.

Second: To consider the propriety of and to authorize the dissolution of this Company, the Oregon Central Railroad Company of Portland; and the settling of its business; and the disposing of its property; and the dividing of its Capital Stock.

Third: To authorize the sale and conveyance or other disposition of the Company's property and the liquidation of its affairs. Yours respectfully,

A. G. CUNNINGHAM,

Secy. of the Oregon Central Railroad Company.

AFFIDAVIT OF SECRETARY, TO MAILING OF NOTICES &C.

State of Oregon)
) ss.
County of Multnomah)

I, A. G. Cunningham, being first duly sworn, say that I am the duly elected, qualified and acting Secretary of the Oregon Central Railroad Company, a corporation duly incorporated under the laws of the State of Oregon, and that I served notices of the special meeting of the Stockholders of said Oregon Central Railroad Company, called for the hour of Eleven o'clock A. M. of the 6th day of October, A. D., 1880, which notice was under my official signature and corporate seal of said Company (and of which notice except

the name of the Stockholder, which was inserted, a copy thereof is hereto attached marked exhibit "A") upon each and all of the stockholders of this Company, that I served said notices by mailing the same at the Post Office in the City of Portland, Oregon, enclosed in a sealed envelope and the postage prepaid thereon, and the same duly addressed to each of said Stockholders at his place of residence as furnished by said Stockholder to the Secretary of this Company and ascertained by the Secretary and that I registered each of said letters and by mailing at said Post Office in like manner like notices to the agents and attorneys of said Stockholders when known to the Company or any officer thereof; that I took the receipts of the Postmaster at Portland for said registered letters which I herewith file; that said letters were mailed at Portland aforesaid to the following named Stockholders and agents at the dates and addressed as follows, to wit:

WHEN MAILED	NAME	ADDRESS	NO OF REGIS- TERED REC'T
1880			
Sept. 11	S. C. Adams	Salem,	Ogn 1135
" "	J. C. Ainsworth	Oakland,	Cal. 1150
" "	do	Portland,	Ogn 1087
" "	C. A. Burkhardt	do	" 1088
" "	W. Baldra	Hillsboro,	Ogn 1112
" "	Stephen Blank	Forest Grove,	Ogn 1095
" "	Hy Buxton, Jr.	Do	"
" "	C. Bills, Estate	Portland	" 1086
" "	Eliza Best	Fidalgo,	W. T. 1191
" "	Jos. R. Boyce,		
	Estate	Hillsboro,	Ogn 1114
" "	William Ball	North Yamhill	" 1132
" "	Geo. H. Burnett	Salem	" 1134
" "	Wm. Barrett	Forest Grove	" 1110
" "	T. R. Cornelius	Cornelius	" 1093
" "	M. Crawford	Dayton	" 1128
" "	Wm. Campbell	McMinnville	" 1106
" "	Margaret Ann		
	Conklin	Hillsboro	"
" "	Kenyon Crandall	Cornelius	" 1092
" "	E. Constablo	Hillsboro	" 1115
" "	T. J. Carter	Baker City	" 1136
" "	S. Coffin	Dayton	" 1129
" "	Oliver Clay	Portland	" 1084
" "	Wm. Cree Estate	do	" 1083
" "	S. F. Chadwick	Salem	" 1133

WHEN MAILED	NAME	ADDRESS	NO OF REGIS- TERED REC'T
1880			
Sept. 11	F. Dekum	Portland	" 1082
" "	J. C. Dobbins	Cornelius	" 1090
" "	J. N. Dolph	Portland	" 1081
Sept. 27	C. A. Dolph	do	" 1441
Sept. 11	Geo. W. Ebberts	Hillsboro	" 1116
" "	J. A. Fisher	East Portland	" 1089
" "	Phinemon S. Field	Forest Grove	"
" "	John S. Griffin	Hillsboro	" 1117
" "	James H. Gaunt	McMinnville	" 1105
" "	John Green	Portland	" 1080
" "	John Harrison, Estate	Cornelius	" 1091
" "	A. B. Hallock	Portland	" 1079
" "	S. A. Halcomb	Hillsboro	" 1118
" "	Thos. Hart	do	" 1119
" "	Wm. L. Halsey, care of E. Quackenbush	Portland Hillsboro	" 1078
" "	Jacob Halstead	and New Tacoma, W. T.	1143
" "	J. M. Johns	Weston	Ogn 1202
" "	Hyer Jackson	Hillsboro	" 1121
" "	A. H. Johnson	Portland	" 1077
" "	Jacob Kamm	do	" 1076

WHEN MAILED	NAME	ADDRESS	NO OF REGIS- TERED REC'T
1880			
Sept. 11	R. Koehler	Portland;	Ogn. Personal
" "	R. Koehler,		
	Trustee	do	" do
" "	J. W. Ladd	do	" 1075
" "	W. S. Ladd	do	" 1075
" "	Labbo Bros.	do	" 1074
" "	Jos. Leonard	do	" 1073
" "	C. H. Lewis	do	" 1072
" "	Walter Moffat,		
	Estate	do	" 1071
" "	J. Myrick	Baker City	" 1137
" "	D. Monastes	Portland	" 1069
" "	S. H. Marsh,		
	Estate	Forest Grove	"
" "	Wm. Manzy	West Union	" 1144
" "	Norman Martin	Sauve Island	"
" "	Jesse C. Moore	Grainville	" 1107
" "	J. H. Mitchell	Portland	" 1068
" "	Chas. McKinney	Hillsboro	" 1122
" "	David McDonald,		
	Estate care of		
	Mrs. Miller	Dilley	" 1147
" "	McCracken		
	Menill & Co	Portland	" 1066
" "	W. T. Newby	McMinnville	" 1104
" "	J. B. Newby	do	" 1104

WHEN MAILED	NAME	ADDRESS	NO. OF REGIS- TERED REC'T
1880			
Sept. 11	E. J. Northrup & Co.	Portland	Ogn 1066
" "	A. DeGorgier Portales care G. W. Weidler	do	" 1065
" "	L. Patterson	Hillsboro	" 1123
" "	S. G. Reed	Portland ...	" 1064
" "	C. A. Reynolds	Forest Grove	"
" "	J. M. Ritchey	Coyote Creek	"
" "	do	Oakland	"
" "	Thos Standley, care W. T. Newby	McMinville	" 1104
" "	B. E. Stewart Estate	Forest Grove	" 1130
" "	D. C. Stewart	North Yamhill	"
" "	Jos. S. Smith	Portland	" 1062
" "	Geo. H. Smith	Hillsboro	" 1125
" "	Albert Simpson	Forest Grove	"
" "	Henry Sewell, Estate	Hillsboro	" 1125
" "	R. R. Thompson	Alameda	Cal 1149
" "	Henry B. Tucker	Beaverton	Ogn 1146
" "	L. H. Tongue	Hillsboro	" 1126
" "	Hans Thielsen	Portland	" 1059
" "	J. B. Underwood	Eugene City	" 1145

WHEN MAILED	NAME	ADDRESS	NO OF REGIS- TERED REC'T
1880			
Sept. 11	G. W. Vaughn, Estate	Portland	Ogn 1060
" "	J. W. Watts	Oregon City	" 1138
" "	C. A. Westfall	Hillsboro	" 1127
" "	Peyton Wilkes	Greenville	" 1108
" "	Elkana Walker Estate	Forest Grove	" 1099
" "	Jermina Wheeler Estate	Santa Rosa	Cal 1148
" "	Jabez Wilkes	Greenville	Ogn 1109
" "	C. M. Wiberg	Portland	" 1057
" "	J. A. Strobridge	do	" 1058

I further swear that a notice of said Special Stockholders Meeting of which a copy hereto attached marked "B" was duly published in the "Daily Oregonian" a news paper of general circulation printed and published daily, Sundays excepted, in the City of Portland for 28 successive days, the first insertion being on the 9th day of September and the last insertion being on the 6th day of October, 1880. I further state that I have received the receipts of all said persons, stockholders and agents for said registered packages returned to me through the Post Office, except those addressed to Hy Buxton, Forest Grove, Margaret Ann Conklin, Hillsboro, Phinemon S. Field, Forest Grove,

Estate of S. H. Marsh, Forest Grove, Norman Martin, Sauve Island, C. A. Reynolds, Forest Grove, D. C. Stewart North Yamhill and, Albert Simpson, Forest Grove.

I furthermore swear that in each notice so mailed the name of the Stockholder or person to whom mailed was inserted in the blank space designed for the name.

(Corporate Seal (Signed) A. G. CUNNINGHAM
of Company)

Secretary of the Oregon Central Railroad Company.

Subscribed and Sworn to before me this 6th day of October A. D. 1880.

(Signed) I. R. MOORES,
(Notarial Seal) Notary Public in and for Oregon.

The Stockholders of this Company met at the office of the Company at Portland, Oregon on the 6th day of October, at 11 o'clock A. M.

The President and Secretary present.

The Secretary of the Company presented a certified list of Stockholders of this Company as follows.

Office of the
Oregon Central Railroad Company

Portland Oregon Oct 6th 1880

I, A. G. Cunningham, Secretary, do hereby certify that the following is a true and correct statement of the Stockholders of this Company as shown by the Stock Ledger and Stock Certificate books this date.

No of Cft.	To Whom Issued	Shares	Amount Paid
	S. C. Adams	2	50.00
15	J. C. Ainsworth	6	500.00
	C. A. Burkhardt	5	500.00
86	W. Baldra	1	100.00
5	61		
—	—	8	225.00
4	4		
	Stephen Blank		
44	Hy Buxton, Jr.	10	250.00
36	C. Bills	5	500.00
102	Eliza Best (7 $\frac{1}{4}$)	5	500.00
	Remarks (725)		
98	Jos. R. Boyce	1 $\frac{1}{2}$	50.00
3	William Ball	2	50.00
	(Should		
75	Geo H. Burnett	1 share 4	25.00
	only)		
	(Remarks 1 share)		
72	William Barrett	12	
	T. R. Cornelius (1)	5	400.00
	(Remarks Should be 5500)		
19	59		
—	—	2	200.00
1	1		
	M. Crawford		
35	William Campbell	8	800.00
97	Margaret Ann Conklin	20	2000.00
58	Kenyon Crandall	2	175.00
96	E. Constablo	1	100.00
19	T. J. Carter	5	500.00

No of Sht.	To Whom Issued	Shares	Amount Paid
29	S. Coffin	5	500.00
	O. Clay	2	12.50
34	Wm. Cree	5	500.00
42	54		
—	—		
1	1		
	S. F. Chadwick	2	200.00
	F. Dekum	5	500.00
70	J. C. Dobbins	32	
Remarks (94 70 Cancelled)			
49	56		
—	—		
1	1		
	J. N. Dolph	2	100.00
52	55		
—	—		
1	1		
	C. A. Dolph	2	100.00
6			
	Geo. W. Ebberts	21	525.00
45	46		
—	—		
10	5		
	J. A. Fisher	15	750.00
	Phinemon S. Field	5	125.00
9	John S. Griffin	1½	150.00
	James S. Gaunt	9	225.00
	John Green	5	100.00
	John Harrison	10	250.00
27	A. B. Hallock	5	500.00
59	60		
—	—		
5	5		
	S. A. Halcomb	10	250.00

No of Cft.	To Whom Issued	Shares	Amount Paid
90	Thos. Hart	5	500.00
31	Wm. L. Halsey	5	500.00
87	Jacob Halstead	1	
94	J. M. Johns	24 $\frac{1}{2}$	2450.00
11	24		
—	—		
20	8		
	(Remarks—Should be 20 shares only.)		
47	A. H. Johnson	5	500.00
81	Jacob Kamm	5	500.00
38	58		
—	—		
1	1		
44)		
—)		
46555 $\frac{5}{8}$)		
47)		
—)		
2499)		
53	60)		
—	—)		
27	4)		
61	62)		
—	—)		
100	5)		
63)		
—)		
5) R. Koehler, Trustee	49195 $\frac{5}{8}$	9950.00
	(Remarks—49545 $\frac{1}{4}$)		
83	J. W. Ladd	5	500.00
	W. S. Ladd	5	500.00

vs. The United States

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No of Cft.		To Whom Issued	Shares	Amount Paid
		Labbe Bros.	5	500.00
		Jos. Leonard	4	25.00
48	52			
—	—	C. H. Lewis	2	100.00
1	1			
28		Walter Moffatt	5	500.00
		J. Myrick	5	500.00
		D. Monastes	5	100.00
84		S. H. Marsh	1 $\frac{1}{8}$	112.42
92		Wm. Manzey	2	250.00
73		Norman Martin	5	100.00
64		Jesse C. Moore	1	100.00
18		J. H. Mitchell	1	
101		Chas. McKinney	7 $\frac{1}{2}$	750.00
95		David McDonald	4	900.00
		McCracken Merrill & Co	5	500.00
20	21			
—	—	W. T. Newby	12	300.00
3	3			
		E. J. Northup & Co.	5	500.00
		(Remarks) (O & C R R Co.)		
		J. B. Newby	10	
21	22			
—	—	A. De Gorgies Portales	81	8200.00
61	20			
		Remarks (8100)		
67		L. Patterson	2	200.00
79		S. G. Reed	5	500.00
4		C. A. Reynolds	4	100.00

No of (Cft.	To Whom Issued	Shares	Amount Paid
9	J. M. Ritchey	15	1500.00
14	Thos. Standley	26	500.00
34	B. E. Stewart	2	50.00
35	D. C. Stewart	2	50.00
16	Jos. S. Smith	5	500.00
	Geo. H. Smith	8	200.00
	Albert Simpson	1	18.75
	Henry Sewell	1	18.75
80	E. R. Thompson	5	500.00
53	Henry B. Tucker	6	600.00
88	L. H. Tongue	11½	
41	Hans Thielsen	1	100.00
74	J. B. Underwood	1	
26	G. W. Vaughn	5	500.00
10	J. W. Watts	1	25.00
15	C. A. Westfall	16	400.00
76	Peyton Wilkes	2	37.50
7	Elkana Walker	2	50.00
	Jermina Wheeler	1	100.00
	Jabez Wilkes	1	6.25
	Wiberg and Strobridge	3	300.00
	Total	49800½	\$47531.17

and that no transfers have been made on the books of this Company within the preceeding ten days.

(Corporate Seal) (Signed) A. G. CUNNINGHAM,
Secretary.

Upon the roll of Stockholders being called the fol-

lowing named Stockholders, owning and holding the number of shares of the Capital Stock of this Company hereinafter stated, were present or represented by duly authorized and constituted proxies and answered to their names as follows, to wit:

S. C. Adams, by R. Koehler, Proxy	2 shares
T. R. Cornelius	5 "
M. Crawford	2 "
Wm. Campbell	8 "
S. Coffin by J. N. Dolph, Proxy	5 "
O. Clay, by R. Koehler, Proxy	2 "
S. F. Chadwick	2 "
J. N. Dolph	2 "
C. A. Dolph	2 "
J. A. Fisher	15 "
James H. Gaunt by R. Koehler, Proxy	9 "
S. A. Holcomb	10 "
J. M. John	24 $\frac{1}{2}$ "
R. Koehler	2 "
R. Kohler, Trustee	49195 $\frac{5}{8}$ "
Wm. Manzey	2 "
W. T. Newby by R. Koehler, Proxy	12 "
J. B. Newby by R. Koehler, Proxy	10 "
Thos, Standley by R. Koehler, Proxy	26 "
Henry B. Tucker	6 "
Total	49,349$\frac{1}{8}$ shares

being all the Capital Stock of the Company excepting 655 $\frac{1}{8}$ shares not represented.

The President submitted to the meeting the follow-

ing communication which upon motion was ordered spread upon the records of this Meeting and is as follows, to wit:

“Office of the

“Oregon Central Railroad Co.

“Portland Oregon Oct. 6th 1880

“To the Stockholders of the Oregon Central Railroad
 “Company Gentlemen Upon the 8th day of Septem-
 “ber last I received a proposition from the Oregon and
 “California Railroad Company to purchase of this Com-
 “pany all its property, real, personal and mixed which
 “proposition is herewith submitted as part hereof. Deem-
 “ing it important that said proposition should be laid
 “before the Stockholders of this Company I called a
 “meeting of the Board of Directors, which meeting was
 “held the 8th ult and the proceedings of which are here-
 “with submitted for your consideration.

(Signed) T. R. CORNELIUS, President,

O. C. R. R. Co.

The Committee appointed at the Director's meeting of the 8th September 1880, submitted a report which upon motion of Mr. Koehler, seconded by Mr. Chadwick, was received and adopted, and ordered spread upon the record of the proceedings of this meeting, which report is as follows, to wit:

“ To the President, Directors and Stockholders of
 “the Oregon Central Railroad Co. Gentlemen The un-
 “dersigned Committee appointed in accordance with a
 “resolution passed at the regular monthly meeting of
 “your Board of Directors held on Wednesday the 8th

“day of September 1880, to examine the books of said
“Company and report the result of such examination to
“the Stockholders Meeting called for the 6th day of
“October 1880, beg to report that in accordance with
“said appointment they have made such examination and
“find the Ledger accounts to correspond with the Bal-
“ance Sheet hereto attached marked exhibit “A,” and
“the condition of the Company to be as shown by State-
“ment of Liabilities and assets accompanying the same
“marked exhibit “B.”

“ Upon a full examination of the operating accounts
“we find the gross earnings to be Five Hundred and
“fourteen thousand seven hundred and seventeen and
“20/100 dollars (\$514717.20), and gross expenses to
“be Four Hundred and Seventy Six Thousand Fifty
“Nine and 39/100 dollars (\$476059.39) giving a gain
“on the operating account from opening of the road to
“the date of leasing to the Western Oregon Railroad
“Company on Sept. 1st 1879, of Thirty eight Thousand
“Six Hundred and fifty seven and 81/100 Dollars (\$38-
“657.81) and that the Company have received for rental
“of its Road and equipment Twenty three thousand Two
“Hundred and fifty Dollars (\$23250.) which together
“with the gain on operating account have been applied
“to payment of interest and expenditures not taken up
“in operating account and the final result to be a de-
“ficit or loss of nearly One Million Dollars as shown
“by exhibit “B” aforesaid.

“Respectfully submitted

“(Signed) C. A. DOLPH)
 “C. H. LEWIS (Committee
 “A. G. CUNNINGHAM)

Portland, Ogn Oct 1st 1880

EXHIBIT “A”

OREGON CENTRAL RAILROAD COMPANY

Ledger Balances Sept. 30th 1880

Dr.						Cr.
:	:	:	:	:	:	
:	:	:	:	:	:	
:	:	:	:	Bills Payable	:	52: 1,013.006.82
:	:	:	:	Interest Warrant:	:	
:	:	:	:	2d Mortgage	:	
:	:	:	:	Bonds	:	84: 84,000.00
:	973:448:	53:	Profit and Loss	:	85:	
:	:	:	:	Second Mortgage	:	
:	:	:	:	Bonds	:	91: 300,000.00
:	:	:	:	Oregon and Califor-:	:	
:	:	:	:	nia Railroad Co.	:	103: 120,997.40
:	:	:	:	:	:	
:	:	899:	49:	Cash	:	105:
:	:	:	:	:	:	
:	1:750:	00:	Western Oregon	:	:	
:	:	:	:	Railroad Co.	:	107:
:	:	:	:	:	:	
:	58:882:	17:	Government Land	:	:	
:	:	:	:	Grant	:	109:

vs. The United States

4865

Dr.

Cr.

: : : :U. S. Land Subsidy:	111:	79,116.79
: : : :	: :	
: : : :Coupon Interest,	:113:	13,230.00
: : : : 2nd Mtg. Bonds :	: :	
: 21:183: 14:Land Department :	115:	
: : : :	: :	
1,166,984.02:Construction and	: :	
: Equipment	:117:	
() : :	: :	
:Bills Payable, In-	: :	
: terest act.	:545:	612,796.34
<hr/>		
: :	: :	
2,223,147.35 :	: :	2,223,147.35

EXHIBIT "B"

CONDITION OF COMPANY AS SHOWN BY BAL SHEET ABOVE

LIABILITIES

Bills Payable (\$4395000.00

First Mtg. Bonds pledged

for 2 notes of \$500,000

each of this act \$1,013,006.82

Interest on the two notes

for \$1,000,000 at 10% to

6th Apl 76 then 5% to date 612,796.34 1,625,803.16

Second Mortgage Bonds...\$ 300,000.00

Dr.

Cr.

7% Int. on Bonds to 31st Aug't 80			
pr Int warrants	\$94,500		
—Less—			
Paid by Company	10,500		
	<hr/>		
	\$84,000		
Int on coupons from maturity to date	13,230	97,230.00	397,230.00
	<hr/>	<hr/>	
Oregon and California R R Co			120,997.40
			<hr/>
			2,144,030.56

ASSETS

Construction and Equipment	1,262,450.26		
Track & Sidings 49 46/			
100 miles			
—Less—			
Individual subsidy			
	\$95,466.24		
U. S. Land Subsidy			
237,000 acres			
	\$85,000.00		
—Less—			
Land office			
fees	5,883.21	79,116.79	174,583.03—1087,867.23
	<hr/>	<hr/>	<hr/>
& exs.			
Government Lands total value		\$	85,000.00

—Less—

Rec'd Cash on sales	4934.69	
Maturing on sales	21183.14	26,117.83
		58,882.17
Land Department for Contract Sales		21,183.14
Cash on hand		899.49
Western Oregon R. R. Co.	1,750.00	1,170,582.03
		<hr/>
		1,170,582.03

Balance, Deficit, Profit and Loss Bal Sheet \$973,488.53

Portland Ogn Sept 30th 1880

(Signed) A. G. CUNNINGHAM, Secretary.

Upon motion of J. N. Dolph seconded by Mr. Chadwick, the following preamble and resolutions were adopted by the following vote.

In favor of adoption		Against adoption
C. A. Dolph	2 shares	S. A. Halcomb 10 shares
Wm. Manzey	2	
J. N. Dolph	2	
J. A. Fisher	15	
S. F. Chadwick	2	
M. Crawford	2	
H. B. Tucker	6	
J. M. Johns	24½	
C. H. Lewis	2	
S. Coffin by		
J. N. Dolph Proxy	5	
J. H. Gaunt, by		
R. Koehler Proxy	9	
Walter Moffatt do	5	

In favor of adoption

Against adoption

O. Clay do 2

Thos. Stanley do 26

Wm. Campbell do 8

S. C. Adams by

R. Koehler Proxy 2

J. B. Newby do 10

R. Koehler 2

W. T. Newby, by

R. Koehler Proxy 12

R. Koehler,

Trustee 49195 $\frac{5}{8}$

T. R. Cornelius 5

 Total for 49339 $\frac{1}{8}$ shares Total against 10 shares

Whereupon said resolutions having received the vote of 49339 $\frac{1}{8}$ Shares of the Capital Stock of this Company and that being the vote of more than ($\frac{99}{100}$) Ninety nine one hundredths of all the Capital Stock of this Company the resolutions were declared by the President of the Company to have been adopted by the meeting said resolutions are as follows, to wit:

WHEREAS for the reasons stated in the preamble of the resolutions of the Board of Directors of this Company passed at a meeting held Sept. 8th 1880 a copy of which has been submitted to this meeting by the President of this Company it is deemed by the Stockholders of this Company for the best interest of this Company to accept the proposition of the said Ore-

gon and California Railroad Company a corporation under the laws of Oregon, and having its principal office and place of business at Portland, Oregon, to purchase all the property of this Company real, personal and mixed now submitted to this meeting, and

WHEREAS, in the judgment of the STOCKHOLDERS OF THIS Company the compensation offered to be paid for the property of this Company by said Oregon and California Railroad Company is greatly in excess of the real value of said property,

RESOLVED, That all the proceedings of the Board of Directors of this Company heretofore taken in relation to the said proposition of the said Oregon and California Railroad Company to purchase the property of this Company be and the same are hereby approved and confirmed.

RESOLVED That the said proposition of the said Oregon and California Railroad Company to purchase the property of this Company be and the same is hereby accepted.

RESOLVED That the President and Secretary of this Company be and they are hereby authorized and directed for the consideration offered by said Oregon and California Railroad Company to sell all the property real, personal and mixed of this Company to said Oregon and California Railroad Company.

RESOLVED That the President and Secretary of this Company be and they are hereby authorized and directed in consideration of the covenant and agreement

of said Oregon and California Railroad Company to assume pay and discharge the indebtedness of this Company, be and they are hereby authorized and directed to execute and deliver to the said Oregon and California Railroad Company under their official signatures and the corporate seal of this Company a good and sufficient conveyance and transfer of all the railroad and road bed of this Company extending from Portland, Oregon, to St. Joseph, in Yamhill Co Oregon, a distance of 48 miles; together with all its lands, tenements and hereditaments acquired and appropriated for the purpose of a right of way for this railroad, stations depots and other possessions and all the appurtenances thereunto belonging, and also, all its lands not heretofore conveyed acquired under and pursuant to the provisions of the act of Congress of the United States of America approved May fourth 1870 and entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon," and also its depots, engine houses, car houses, station houses, warehouses, machine shops work shops, superstructure, erections and fixtures, and also all and singular the franchises, rights and privileges now owned & possessed by this Company.

and all lands, tenements, hereditaments and real estate acquired or appropriated wheresoever and whatsoever or now owned by this Company.

and also all and singular the locomotives, tenders, passenger cars, freight cars and all other cars, car-

riages, tools, machinery and equipments for said railroad now owned by this Company,

and also all goods and chattels now owned, by this Company, and in any way relating or pertaining or belonging to or connected with said railroad, or running or operating the same or otherwise.

and also all bills receivable, notes, accounts, demands and choses of action of whatsoever nature belonging to this Company.

RESOLVED, That the dissolution of this Company, the Oregon Central Railroad Company incorporated November 16th 1866, the settling of its business; the disposition of its property and the cancellation of its Capital Stock be and is hereby authorized and the directors of this Company be and they are hereby directed to proceed to carry into effect the dissolution of this Company, the sale of its property and settlement of its business and the cancellation of its Capital Stock as herein authorized.

RESOLVED that upon such sale and transfer of the property of this Company the payment of its debts as hereinbefore provided, and the settling of its business all outstanding certificates of Stock be and they are hereby cancelled.

RESOLVED, that this Company the Oregon Central Railroad Company be and the same is hereby dissolved to take effect upon the transfer of the property of this Company and the settling of its business.

On motion of J. M. Dolph seconded by S. F. Chadwick, the meeting adjourned sign die

MEETING OF DIRECTORS CONTINUED

The Directors assembled at 11:30 A. M. after recess, and at 12 o'clock noon the President called the board to order same members present as before recess.

The President presented to the meeting the proceedings of the Special Meeting of the Stockholders of this Company this day held at the office of the Company and which were spread at large upon the Minutes of the proceedings of said meeting which proceedings were read to the Board.

Whereupon Mr. J. N. Dolph offered the following resolutions and moved their adoption, which motion being seconded by Mr. Crawford the resolutions were unanimously adopted, said resolutions are as follows, to wit:

RESOLVED; That all the proceedings of said meeting of the Stockholders of this Company this day held be and the same are hereby approved and confirmed by this board.

RESOLVED, That the said proposition of the Oregon and California Railroad Company for the purchase of the property of this Company for the consideration of the covenant and agreement of the said Oregon and California Railroad Company to pay and discharge the indebtedness of this Company be and the same is hereby accepted, and that the President and Secretary of this Company be and they are hereby authorized and directed in consideration of the covenant and agreement of said Oregon and California Railroad

Company to assume and pay the indebtedness of this Company to execute and deliver to the said Oregon and California Railroad Company a good and sufficient conveyance and transfer, under their official signatures and the corporate seal of this Company, all the railroad and road bed of this Company extending from Portland, Oregon, to St. Joseph, in Yamhill County, Oregon, a distance of 48 miles, together with all its lands, tenements and hereditaments acquired and appropriated for the purpose of a right of way for its railroad, stations, depots and other purposes, and all the appurtenances thereunto belonging, and also, all its lands not heretofore conveyed under and pursuant to the provisions of the Act of Congress of the United States of America approved May fourth, 1870 and entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon," and also its depots, engine houses, car houses, station houses, warehouses, machine shops, work shops, superstructures, erections and fixtures, and also all and singular the franchises rights and privileges now owned & possessed by this Company.

and all lands, tenements, hereditaments and real estate acquired or appropriated wheresoever and whatsoever or now owned by this Company.

and also all and singular the locomotives, tenders, passenger cars, freight cars, and all other cars, carriages, tools, machinery and equipments for said Railroad now owned by this Company,

and also all goods and chattels now owned by this Company, and in any way relating or pertaining or belonging to or connected with said railroad, or running or operating the same or otherwise,

and also all bills receivable, notes, accounts, demands and choses of action of whatsoever nature belonging to this Company.

On motion of Mr. J. N. Dolph seconded by Mr. Koehler, the board adjourned without day.

A. G. CUNNINGHAM, Secy. T. R. CORNELIUS,

President O. C. C. R. R. Co.

Office of the Oregon Central Railroad Company

Portland, Oregon, May 28th, 1883.

Pursuant to call of the President the Board of Directors met at the office of this Company, this day at 11 o'clock a. m., present

President T. R. Cornelius

Directors R. Koehler, J. N. Dolph, C. A. Dolph, S. F. Chadwick, C. H. Lewis, and Medorem Crawford.

The President presented and read the following resignation of Mr. A. G. Cunningham.

“Portland, Oregon, May 25th, 1883.

“To the President and Board of Directors of the Oregon Central Railroad Company, Portland, Ogn. Gentlemen: I hereby resign the position of Secretary and Treasurer of the Oregon Central Railroad Company of Portland, Oregon, to take effect from the date of

“the appointment of my successor.

Very Respectfully

“(Signed) A. G. CUNNINGHAM.

On motion of Mr. J. N. Dolph, seconded by C. A. Dolph, the resignation of Mr. A. G. Cunningham, the Secretary and Treasurer of this Company, was unanimously accepted.

On motion of R. Koehler, seconded by J. N. Dolph, Geo. H. Andrews was unanimously elected Secretary and Treasurer of this Company, vice A. G. Cunningham, resigned.

On motion of R. Koehler, seconded by C. A. Dolph, the following resolution was unanimously adopted.

WHEREAS, at the time of the dissolution of this Company and the disposal of its property, all the property of this Company, real, personal and mixed was sold and intended to be sold to the Oregon and California Railroad Company for the considerations paid by said Company, but the property hereinafter described being in litigation and the title of this Company to the same being an equitable one, the same was not, for that reason, included in the conveyance executed by this Company to the Oregon and California Railroad Company, therefore be it

RESOLVED That the President and Secretary of this Company, be and they are hereby authorized to execute in the name of and on behalf of this Company, under their official signatures and the corporate seal

of this Company, a good and sufficient conveyance, to the Oregon and California Railroad Company, releasing and quit-claiming to said Company, all the right, title, and interest of this Company in and to the following described property. All the following described pieces, parcels, or tracts of land; situated, lying and being in Couch's addition to the City of Portland, Multnomah County, in the State of Oregon, to wit:

Blocks E, I, J, K, L, M & N, and fractional blocks A, B, C, D, F, G, and H, according to the recorded plat of said Couch's Addition.

And also the estate, right, title and interest of the said Company, of, in and to the following described parcels of real estate, situate and being in said Couch's Addition to the City of Portland, lying adjacent to the above described blocks and which have heretofore been occupied as streets but have been vacated by the municipal authorities of said City, to wit:

All that portion of what was formerly North Sixth Street from the North line of J Street to the west line of North Front Street.

All that portion of what was formerly North Fourth Street from the north line of J. Street to the west line of North Front Street.

All that portion of what was formerly North Third Street from the north line of H. Street to the West line of North Front Street.

All that portion of what was formerly North Sec-

ond Street from the North line of "G" street to the west line of North Front Street.

All that portion of what was "H" street lying east of North Third Street.

All that portion of what was formerly "I" street lying east of North Fourth Street.

All that portion of what was formerly "J" street lying east of North Sixth street.

On motion duly seconded the Board adjourned without day.

GEO. H. ANDREWS, T. R. CORNELIUS,
Secretary President.

Office of the Oregon Central Railroad Company.

Portland Oregon May 23, 1895.

Pursuant to Article V of the By-Laws and of notice duly given to each Stockholder as provided in Article VI of the By-Laws, the annual meeting of the Stockholders was held at the office of the Company, Portland, Oregon, this day at 11 o'clock A. M.

President T. R. Cornelius called the meeting to order. George H. Andrews, Secretary, present.

The Secretary presented and read the following certified list of Stockholders, viz:

Oregon Central Railroad Company

Certified list of Stockholders of the Oregon Central Railroad Company, of record and entitled to vote at Stockholders Meeting to be held May 23, 1895.

NAME OF STOCKHOLDER	Ledger Page	No. of Shares
Phinemon S. Field	1	5
Albert Simpson	4	1
Wiberg & Strobridge	9	3
David Monastes	13	5
John Green	15	5
Jabez Wilkes	17	1
Joseph Leonard	27	4
George H. Smith	29	8
S. A. Holcomb	40	10
Labbo Bros.	44	5
R. R. Thompson	45	5
T. J. Carter	48	5
C. A. Westfall	50	16
Hyer Jackson	50	20
Geo. W. Ebberts	51	21
Eliza Best	52	7 $\frac{1}{4}$
Joseph R. Boyce	53	$\frac{1}{2}$
Charles McKinney	54	7 $\frac{1}{2}$
William Ball	56	2
W. L. Hasley	65	5
J. H. Mitchell	66	1
J. W. Watts	68	1
Arthur dePourtales	69	81
Richard Koehler	70	2
J. N. Dolph	72	2
C. A. Dolph	73	1
Medorum Crawford	67	2
T. R. Cornelius	68	1
Richard Koehler, Trustee	74	49539 $\frac{1}{4}$

NAME OF STOCKHOLDER Ledger Page No. of Shares
Oregon and California Railroad

Company	75	6
Geo. H. Andrews	"	1
L. R. Fields	"	1
W. A. Grondahl	76	1
E. P. Rogers	"	1
Total Shares		<hr/> 49776 $\frac{1}{2}$

I, George H. Andrews, Secretary of the Oregon Central Railroad Company hereby certify that the foregoing is a complete and true list of the Stockholders of the Oregon Central Railroad Company of record May 13th 1895.

(Seal) GEO. H. ANDREWS, Secretary.

On the roll being called the following Stockholders were present in person or by proxy, viz:

S. A. Holcomb	10 shares
Richard Koehler, by Geo. H. Andrews, Proxy	2 "
J. N. Dolph	2 "
T. R. Cornelius	1 "
Richard Koehler, Trustee, by Geo. H. Andrews, Proxy	49539 $\frac{1}{4}$ "
Geo. H. Andrews	1 "
L. R. Fields	1 "
E. P. Rogers	1 "
Total Stock present	<hr/> 49557 $\frac{1}{4}$ shares

The minutes of the proceedings of the Annual Meeting of Stockholders held May 27th 1880 and of the

Special Meeting of the Stockholders held October 6th, 1880 were read and approved.

On motion duly seconded it was resolved that the meeting proceed to the election of directors.

The chairman appointed Mr. E. P. Rogers teller

The vote was by open ballot and resulted as follows:

T. R. Cornelius	Received	49547 $\frac{1}{4}$	votes
J. N. Dolph	"	49547 $\frac{1}{4}$	"
R. Koehler	"	49547 $\frac{1}{4}$	"
Geo. H. Andrews	"	49547 $\frac{1}{4}$	"
L. R. Fields	"	49547 $\frac{1}{4}$	"
W. A. Grondahl	"	49547 $\frac{1}{4}$	"
E. P. Rogers	"	49547 $\frac{1}{4}$	"

Each of the above Stockholders having received 49547 $\frac{1}{4}$ votes, being all the votes cast, and more than a majority in amount of the Capital Stock issued and outstanding, the chairman declared them duly elected directors of this Company for the ensuing year and until their successors are elected and qualified and filed with the Secretary the following certificate of election:

State of Oregon)
 (ss
 County of Multnomah)

I, T. R. Cornelius, President of the Oregon Central Railroad Company and chairman of the annual meeting of the Stockholders of said Company, do hereby certify that at said annual meeting of the Stockholders of said Company duly called and held at the office of the Company, Portland, Oregon, on the 23d day of May A. D.

1895, the following named persons, stockholders of said Company, were duly elected directors of the Oregon Central Railroad Company to serve for the ensuing year and until their successors are elected and qualified, to wit: T. R. Cornelius, J. N. Dolph, R. Koehler, Geo. H. Andrews, L. R. Fields, W. A. Grondahl and E. P. Rogers.

T. R. CORNELIUS,
President and Chairman of Stockholders Meeting.

No further business appearing, on motion duly seconded the meeting adjourned.

GEO. H. ANDREWS, T. R. CORNELIUS,
Secretary President and Chairman
of Stockholders Meeting.

Office of the Oregon Central Railroad Company
Portland, Oregon, May 27th, 1895.

Pursuant to notice duly given the Directors elected at the annual meeting of the Stockholders held May 23, 1895, met at the office of the Company this day at 11 o'clock A. M. President T. R. Cornelius called the meeting to order. The Secretary read the certificate of election filed by the Chairman of the Stockholders Meeting and informed the Board that all the Directors had filed their oath of office as required by law.

On the roll being called the following Directors were present, viz: T. R. Cornelius, J. N. Dolph, R. Koehler, Geo. H. Andrews, L. R. Fields, W. A. Grondahl and E. P. Rogers.

On motion duly seconded Mr. T. R. Cornelius was elected Chairman pro tem.

On motion duly seconded Mr. Geo. H. Andrews was appointed Secretary pro tem.

On motion duly seconded it was resolved that the meeting proceed to the election of officers for the ensuing year.

Mr. T. R. Cornelius was on motion of Mr. Koehler, seconded by Mr. J. N. Dolph, unanimously elected President of this Company for the ensuing year and until his successor is elected and qualified.

Mr. Cornelius then took the chair as President.

Mr. J. N. Dolph was on motion of Mr. R. Koehler, seconded by Mr. L. R. Fields, unanimously elected Vice President of this Company for the ensuing year and until his successor is elected and qualified.

Mr. Geo. H. Andrews was on motion of Mr. R. Koehler, seconded by Mr. J. N. Dolph unanimously elected Secretary and Treasurer of this Company for the ensuing year and until his successor is elected and qualified.

Directors fees

paid

No further business appearing on motion duly seconded the Board adjourned.

GEO. H. ANDREWS T. R. CORNELIUS

Secretary

President.

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